

# **State Building Process: The Case of Palestine**

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To the memory of my father Musbah, and my brother Musa, this dissertation was written.

**Tariq M. Mukhimer**  
**Berlin, on 9 April, 2005.**

## GLOSSARY

**AE:** Arab Executive. It evolved from MCA in 1920 to lead the Palestinian resistance against the Jewish immigration to Palestine in 1920s.

**AHC:** Arab Higher Committee. It was set up in 1936 to steer the Great Revolt (1936-1939).

**ANU:** Arab National Union. It formed the formal grassroots institution in support for Nasser regime during 1950s, and early 1960s.

**ARC:** Agriculture Relief Committees.

**B'Tselem:** Israeli Information Centre for Human Rights in the Occupied Territories.

**CEC:** Central Elections Commission.

**CPRS:** Centre of Palestine for Research & Studies.

**DCO:** District Coordination & Cooperation Office.

**DFLP:** Democratic Front for the Liberation of Palestine; a PLO faction, and opposes Oslo process.

**DOP:** Declaration of Principles.

**EU:** European Union.

**Fatah:** The reversed Arab acronym of the Palestinian National Liberation Movement.

**FIDA:** The Palestinian Democratic Party, a DFLP's splinter group led by Yassir Abed Rabu and supports Oslo process.

**GMC:** General Monitoring Commission.

**Hamas:** the Arab acronym of the Islamic Resistance Movement, a radical non-PLO organization, and opposes Oslo process.

**HCPF:** Higher Council for Policy Formulation, ministry of Social Affairs.

**HRDD:** Human Resources Development Directorate, ministry of Health.

**HSC:** Health Services Council.

**IDF:** Israeli Defense Forces.

**JDEC:** Jerusalem District Electricity Company. It was founded in 1959 to supply the main cities of the West Bank with electricity.

**JEC:** Palestinian-Israeli Joint Economic Committee.

**JMCC:** Jerusalem Media Centre & Communication.

**LAW:** Palestinian Society for the Protection of Human Rights and Environment.

**MCA:** Muslim-Christian Association. It was founded by Palestinians in 1918, to express opposition for Belfour Declaration, and was headed by Musa Kazim El Husayni.

**MoH:** Ministry of Health.

**MOPIC:** Ministry of Planning and International Cooperation.

**OPT:** Occupied Palestinian Territories. It denotes the West Bank (including East Jerusalem) and Gaza Strip.

**PA:** Palestinian Authority.

**PCHR:** Palestinian Centre for Human Rights.

**PECDAR:** Palestinian Economic Council for Development and Reconstruction.

**PFLP:** Popular Front for the Liberation of Palestine, a PLO faction, and opposes Oslo process.

**PHC:** Palestinian Health Council.

**PHIC:** Palestinian Health Information Centre, MoH.

**PIF:** Palestinian Investment Fund, ministry of Finance.

**PLC:** Palestinian Legislative Council.

**PLO:** Palestinian Liberation Organization.

**PMA:** Palestinian Monetary Authority.

**PNC:** Palestinian National Council, the PLO's legislative body.

**PNF:** Palestinian National Front. It emerged in OPT in 1970s as a PLO affiliated political institution.

**PNSC:** Palestinian National Security Council.

**PRCS:** Palestinian Red Crescent Society.

**SMC:** Supreme-Muslim-Council. It was founded by British mandate in December 1921. The goal was to enable Palestinians to manage their religious affairs. Amin El Husayni, the Mufti, was appointed as head of it.

**UHCC:** Union of Health Care Committees.

**UHCW:** Union of Health Work Committees.

**UN:** United Nations.

**UNHRC:** United Nations Human Rights Commission

**UNLU:** Unified National Leadership for the Uprising (it steered the first *Intifada* 1987-1993)

**UNRWA:** United Nations for Refugees and Working Agency. It was founded in December 1948 in response to Palestinian refugees crisis.

**UPMRC:** Union of the Palestinian Medical Relife Committees.

**VAT:** Value Added Tax.

**VIP:** Very Important Person.

**WBGS:** West Bank & Gaza Strip.

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## **Introduction**

Identifying the elements of state building in Palestine is one of the most difficult challenges that might be confronted by any scholar or researcher. Historically speaking, Palestine was subjected to various rules and regulations that made a huge impact on the socioeconomic and political structure of the country. Ottomans, British, Jordanians, Egyptians, and finally Israelis -all of them alike- attempted to leave complex legal and structural systems designed to promote their interests over those of the Palestinian population, often whilst simultaneously trying to maintain the façade of helping the Palestinians.

When the Palestinian Authority (hereinafter PA) was established on the Gaza Strip and West Bank (hereinafter WBGS) one of its main challenges was how to deal with this debilitating heritage whilst promoting institutions and institutional capacity building, both of which began gaining momentum from 1994 onwards. In this connection, the PA was asked to build central state institutions capable of promoting good governance and democracy.

The subject of this dissertation is the process of state building in the WBGS. Its scope is limited to a specific time and place. It focuses on the period from the establishment of the PA in 1994 up to 2004, the first decade of the PA's existence. The dissertation is an analysis of how the institutional developments that took place within WBGS in this period have contributed to the process of state building in the WBGS. In the context of this study, the period divides into two distinct epochs:

- from May 1994 (when the PA was established) until September 2000 (the outbreak of Al-Aqsa Intifada); and
- From Al-Aqsa Intifada until 2004.

This is not to say that the developments (whether political, economic, social, etc), that occurred in each period are isolated from the developments that occurred in the other period. Indeed the contrary is the case. The two periods are intertwined and there is significant continuity. Neither epoch can be explained in isolation from the other.



One of the most notable features of the period of 1994-2000 was the Para-state institutions (or the national level institutions of state functions) which appeared in 1994. As a result of the Oslo accords Palestinians, could have their legislative, ministerial, and bureaucratic bodies. In the aftermath of the elections that took place in January 1996, the elected president Yasser Arafat, was mandated to propose the members of the first Cabinet in Palestinian history. The President and the Cabinet members form, according to the Oslo agreements/accords, the executive authority. For the purposes of this dissertation, the Palestinian Authority (PA) will be understood as the executive authority together with the Bureaucracy and the Palestinian security forces.

In the same year, members of the first Palestinian legislative assembly were elected. The assembly, which was inaugurated in March of the same year, became to be known as the Palestinian Legislative Council (hereinafter PLC). The PLC is composed of 88 members and only represented Palestinians of WBGS (including Palestinians of East Jerusalem), and thus excluded Palestinian refugees in exile.

Alongside the PLC was the Palestinian bureaucracy which was introduced for the first time in Palestinian history. The Oslo process enabled Palestinians to take control over their civil affairs. In this regard, Palestinians from 1994 onward were able to run their affairs in various civil fields such as health, social affairs, education, transportation, infrastructure, and so on.

Thus the Para-state institutions (the cabinet, the legislative assembly, bureaucracy, and so on) were already on the ground. It is, therefore, important to study the conditions through which these institutions came into being and then analyse their functions and relationships with each other and with Palestinian society. In this regard, the following questions come to mind:

- Under what conditions did these institutions come into being?
- To what extent, and in what way, did these conditions influence the form and functions of these institutions, their relationship with each other, and their relationship with Palestinian society?

- To what extent did these institutions manage to develop themselves into the hub of a modern state, including the ability of issuing territorially binding rules and monopolizing coercion?

To answer these questions, I introduce a brief discussion over the theories of state in chapter I (the State: Theoretical Framework and Arab State) before moving on to discuss the main features of the Arab state. Obviously Palestine has a shared political, economic, and cultural history with the rest of the Arab world. I therefore use the discussion of the process of state building within the Arab world in order to situate the narrower context of Palestine.

In chapter II (Palestinian Autonomy: Historical Overview), I discuss the historical development of state building in Palestine. In so doing, I am focusing my attention at the historical development of Palestinian access to national & local level institutions of state functions. By national level institutions of state functions I mean the Cabinet and Parliament. By local level institutions of state functions I mean the municipal and rural councils.

I argue in chapter II that the Para-state institutions which had emerged since 1994 were not born in vacuum. Rather, they are an institutional culmination of a historical process of state building. In fact, Palestinians- throughout their history- have always had some level of access to state institutions (local level institutions) but only intermittently had access to national level institutions of state functions. However, at all times and regardless of the level of access, Palestinians have always been constrained in their access by their ruler. It was the Oslo process which made it possible (in theory) for everyone to have full access at all levels.

In chapter III, therefore, I move to discuss the Oslo process, and the power conflict associated the rise of the PA (the first Para-state institution provided by Oslo process) at both the Palestinian-Palestinian level as well as Palestinian-Israeli level. The chapter touches also the PA relation with Palestinian society, including the political and civil society in addition to the general public. Furthermore, the chapter discusses the PA mode of government, and how this mode denied the majority of Palestinians access the national level institutions of state functions (mainly the Cabinet).

In chapter IV, I discuss the structure of the second Palestinian national institution of state functions, which is the PLC. In this connection, the chapter discusses the Palestinian elections of 1996 which introduced the PLC, and the relation of the PLC with the executive authority (PA), and to what extent such a relation is governed according to the democratic principles of the rule of law, transparency, and the separation of powers.

Then I move in chapter V to discuss how the PA mode of government influenced the structure of the bureaucratic system. In other words, the chapter discusses the main features of the Palestinian bureaucracy which emerged for the first time in Palestinian history in 1994, and to what extent this system managed to fulfil its responsibilities of supplying people with the main services. Moreover, the same chapter discusses how the PA mode of government influenced the structure and shape of local government institutions in a manner that hindered the emergence of professional local authorities.

The chapter goes further to show how, in response to PA mode of government, the opponents of Oslo process ( Hamas, Islamic Jihad, and PFLP) laid down the foundation of their Para-state institutions, and practised Para-state functions parallel to PA formal institutions. In so doing, these opponents were motivated not only by their opposition to PA mode of government, but mainly by their opposition to the Oslo process and what might be derived from such a process, including the Para-state institutions of the PA.

This fact contributed to the picture of “state within a state” in the WBGS. That is why the reform emerged at the top Palestinian agenda during Al-Aqsa Intifada (2000-2004). The final chapter, therefore, discusses the extent to which Palestinians managed to revise this picture and to build their state in terms of a centralized monopoly on the use of force by a legitimate/representative governing body that has the ability to issue territorially binding rules.

## **Note on the Methodology**

The dissertation's main hypothesis is that; *“the process of building a state in terms of central, autonomous, and differentiated organization that monopolizes coercion and has the capacity to issue territorially binding rules is not separate from the process of building a state in terms of external sovereignty. The completion of the later process is a pre-condition for the success of the former process.”* The dissertation hypothesis, therefore, is an explanatory one. The best research methodology to test such kind of hypothesis is “observation by using case study analysis”.<sup>1</sup>

Though a case study might be criticized for the fact that its results cannot be generalized to other cases and remain applied to the case under study, it remains the best method to have decisive evidence for or against a political theory. More importantly, it tells us not only whether the hypothesis holds, but also why. This is considered to be the essence of the case study's format of “process tracing” with its focus on the “cause-effect link”. The process tracing format of case study analysis implies the following up of the sequence of events which evidences that a given cause produce a given effect in a given case, and to rely on the testimonies/statements of the actors who experienced these events to find out why these actors acted as they did.<sup>2</sup>

In this connection the interviews emerge as the most important research instrument and source of data. Alongside them are the documents, reports, newspapers, periodicals, articles, internet sites, and books. During my writing of this dissertation, I carried out two field trips: the first one was in the period of September-mid October 2003. The aim of that trip was to collect a number of books and documents about issues related to Palestinian state building. In this regard, the Gaza-based Palestinian Centre for Human Rights was of crucial help. The Centre put its library at my disposal 24 hours a day, and offered me all the facilities and support I needed.

In the period of August-November 2004, another field trip was carried out in the Gaza Strip. The aim that time was to interview the relevant actors in Palestinian state

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<sup>1</sup> Stephen Van Evera. *Guide to Methods for Students of Political Science*. Ithaca & London: Cornell University Press, 1997, Pp.50-55.

<sup>2</sup> Ibid., Pp.55-67.

building (Palestinian Authority officials, members of Palestinian Legislative Council, & NGOs representative). Once again the Palestinian Centre for Human Rights was of crucial help as it put its newspapers archive at my disposal, and offered me an office and computer as well as free access to the Internet. Without the Center's help, my fieldwork would not have been successful.

In the fieldwork I have done I have encountered huge difficulties, mainly due to the Israeli policy of collective punishment against Palestinians. This policy, which widely pursued by Israeli since the outbreak of *Al- Aqsa Intifada* in September 2000 onward, had denied all Palestinians of the occupied territories the right to free movement between the cities, towns, and villages of West Bank and Gaza Strip. Alongside it is the comprehensive closure which has been imposed preventing movement between the Gaza Strip and the West Bank since 1991. In addition to the problems resulting from closure is the shelling of and the incursions into the camps, towns, and cities. These acts, which have become routine during the *intifada*, have created an environment in which it has become increasingly difficult for research, for data collection and even for daily travel from my parents home in Rafah to the office I work from in Gaza city.

During my second fieldwork trip (August-November 2004), I was unable to travel from my home to the various offices on 25 days. Moreover, even on the days which I was able to travel there were often enormous delays at the Israeli checkpoints. I would estimate that each journey each way (between Rafah and Gaza City) took me an average of 2.5 hours, quite apart from the humiliation and danger each day of travel brings. The two most dangerous aspects of the daily commute occur at the Israeli checkpoints of *Abu Houli* and *al-Matahin*. Palestinians waiting to cross them (often for hours) are frequently shot at by the Israeli soldiers who control the checkpoints. Along with many Palestinians I was put through the process of a full strip search, at *al-Matahin* checkpoint, on the pretext of searching for explosives, something they could have seen I was not carrying once I had lifted up my shirt.

Despite the long delays to my travel I was usually able to ensure (on the days travel was possible) that I was on time for meetings I had arranged to interview members of the PA, even if this meant getting up at 4.30 in the morning. However, despite the

effort I put into making the meetings, my efforts were by no means always acknowledged let alone reciprocated by those I sought to interview. For example having been given a time to see him it took me one month of going every day before I got to interview the Deputy Minister of Finance.

Despite these problems, I have carried out several interviews with the different concerned actors (PA officials, members of Palestinians Legislative Council, NGOs representatives). Each interview lasted on average for one and half hours. It took me 5 hours on average to transcribe each interview. During these interviews, I directed the following guiding questions:

### **Questions to high ranking civil servants**

1. What is the number of your ministry's civil servants?
2. What is the average compensation of these servants?
3. What is the Ministry's annual allotment?
4. What is the number of Director-Generals, Deputy Ministers, of the Ministry?
5. What is the main problem your ministry encountered during the *intifada*?
6. Do you think that the recruitment system of the Palestinian bureaucracy is efficient/inefficient?
7. In either case, why?
8. To what extent do you think the reform is necessary for Palestinians?

### **Questions to PLC members**

1. How do you assess the relation between PA and PLC?
2. To what extent was this relation influenced by the ongoing *intifada*?
3. Did the PLC encounter difficulties in carrying out its work during the *intifada*?
4. If yes, what were these difficulties?
5. How did such difficulties influence PLC's relation with PA?
6. Do you think that the PA apparatus should be reformed?
7. Why do you think so?
8. How might these apparatus be reformed?

## Questions to the representatives of the Opponents Para-State Institutions

1. Why do you think that the presence of your organization is important?
2. What kind of services does your organization offer to the public?
3. Do you receive any financial support from the PA?
4. How do you assess the relation of your organization with the PA?
5. How many times were you (interviewee) or any member of your organization subject to PA harassment (detention for example)?

Alongside these interviews, there were several interviews which I had done during my work at the Palestinian Centre for Human Rights. At that time I was working in the Democratic Development Unit. As a researcher, my area of interest was the Palestinian Legislative Council (PLC) as well as the Right to Freedom of Expression under the PA. Throughout the years of my work, I carried out several interviews with PLC members. The transcripts of some of these interviews were used in this study and were of crucial help in drafting some chapters of this dissertation, in particular chapter IV.

The press was used in parallel to the interviews as a source of data and information. In this regard, the Palestinian newspapers of *Al Hayat Al-Jadeeda*, *Al Quds*, *Al-Ayyam*, *Al-Bilad*, *Al -Risalah*, *Al-Istiqlal*, and *Al-Quds Al-Arabi* were of vital help. Alongside them were the Israeli newspapers like *Yidot Ahrnot*, and *the Jerusalem Post*. Arab newspapers were also used. Among these newspapers were the London-based of *Al Hayat*, and *Al Sharq Al Awsat*. The data obtained from these newspapers were supplemented by the data obtained from the international newspapers like the *New York Times*, *the International Herald Tribune*, *the Economist*, and others.

In addition to the press, periodicals have been used in this dissertation. The most important of these periodicals were the local ones like *Al Waqaea*, the formal gazette of PA, the *Palestine-Israel Journal*, *Journal of Palestine Studies*, and *Palestine Report*. Alongside the local periodicals were the Arab ones like *Arab-Studies Journal*, and international ones like the *Middle East Policy*, *the Middle East International*, and *Journal of Middle East Review (MERIA)*.

Internet articles having a relation to the topic were also used, and some information was obtained from the websites of human rights organizations, as well as other organizations working on the Palestinian-Israeli conflict, and international news agencies (e.g., CNN, BBC). The books had been used to draft chapter I, and were of great help for the completion of the discussion of chapter II.



## **Chapter I: The State**

### **Theoretical Framework and Arab State**

“There can be no ‘general state theory’. There can only be state structures formed by the contingencies of social developments.”<sup>3</sup>

One of the main problems of studying the state is the absence of any standard definition or theory that can serve as base for building a general hypothesis. Anyone who is interested in studying the state finds himself before a mass of theories and definitions that reflect in some part the author’s own perspective, and in part the empirical reality of the case under investigation.

Another problem in studying the state is related to the history of state formation, or to when the state emerged. This problem is basically connected to the first one. The lack of consensus among scholars as regards what the state is has led to the emergence of different histories of state formation. Some authors claim that the state had emerged before several thousands years ago, while others claim that the state in its current modern form emerged in the 19<sup>th</sup> century with the full blooming of capitalism at the expense of the land-based feudal system.

These authors assert that the full bloom of capitalism, marked by the rapid development of trade and communications and emergence of a market economy, gave rise to new social forces such as the bourgeoisie, merchants, bankers, and civil servants. These socio-economic developments manifested themselves politically and led to increasing demands for extending political, civil, and social rights, phenomena which made it necessary to re-conceptualize the relationship between society and political authority.<sup>4</sup>

Accordingly, a new form of politics emerged. The nation-state as a relatively

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<sup>3</sup> Bo Strath & Rolf Torstendahl. “State Theory and State Development: States as Network Structures in Changes in European Modern History”, in Rolf Torstendahl (ed.), *State Theory and State History*. London, Newbury Park, & New Delhi: Sage Publications, 1992, p.12.

<sup>4</sup> Ibid. See also Charles Tilly. “Reflections on the History of European State Making. In Charles Tilly (ed.), *The Formation of National States in Western Europe*. Princeton & London: Princeton University Press, 1975. See also Charles Bright & Susan Harding (eds.), *Statemaking and Social Movements: Essays in History and Theory*. U.S.: The University of Michigan Press, 1985.

autonomous, differentiated, centralized, and separate association came into existence for the first time. Such a state gradually expanded the ranks of citizenship to include all the excluded social groups, and made it possible for an individual to stand in direct relationship with the sovereign political authority, a fact which contrasted with the feudal system, where such direct relationship was limited only to specific social groups (groups of nobles and clergy, for example).<sup>5</sup>

The impact of the 19<sup>th</sup> century's socio-economic developments was not limited to these realms, but also extended to include other realms of thought, particularly political thought. That century's socio-economic developments had shifted the political focus from the individual (for example, the political thought of Hobbes, Locke, and Rousseau) to the structure of society. This shift in political thought expressed itself in the political ideas of Karl Marx (1818-1883), Friedrich Engels (1820-1895), Emile Durkheim (1858-1917), Max Weber (1864-1920), and others.

These thinkers had basically devoted themselves to study of the new socio-economic transformations in Europe, and their political manifestations, in particular the newly emerging political identity (the capitalist state) and its relationship to society. It is not the aim here to review the ideas of these thinkers on the state, as that goes beyond the scope of this dissertation, but it is worth mentioning Karl Marx's and Max Weber's contributions to theories of the state, as their ideas formed the departure point for most of the 20<sup>th</sup> century's theories of the state.

### ***The Marxist Perspective versus the Weberian One***

A brief survey of Marxist and Weberian political thought will show clearly how such thought is developmental, and conceives history in a dynamic way. This dynamic vision of history had, in fact, shaped both Marx's and Weber's notion of the state. The state for them is the apparatus of government, administration, and an instrument of coercion, and is in a continuous developmental process.

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<sup>5</sup> Reinhard Bendix. *Nation-Building & Citizenship: Studies of Our Changing Social Order*. New Brunswick/US & London: Transaction Publishers, 2ed edition, 2002, Pp.39-96.

Marx considered the society's mode of production, more specifically the production relations, as the basic foundation on which the political and other institutions arise.<sup>6</sup> Accordingly, the state as a political institution is, for him, a manifestation of the dominant mode of production within the society, and varies according to variation in this mode of production. The state in this sense serves the interest of the economically dominant class, which manages to control the civil bureaucracy as well as the military and police apparatus. Therefore, the state in pursuing its policy becomes fully guided (not autonomous) by the interests of this class. State policy is the political expression of such interest.

On the other hand, Weber believes that the state has its own interest totally separate from the interest of any social group within the society. The state, according to him, emerges as part of a general trend toward rationalizing the society according to impersonal, universal, and general rules. In this sense the state is understood as a rationalized bureaucratic organization working according to general, universal, and impersonal rules that are devoted to specific ends established by the state itself. These rules make the state immune from the influence of society. In implementing these rules the state tends to monopolize the means of coercion within well-defined territories.<sup>7</sup> The state according to this concept is fully autonomous in pursuing its own policy and is not subject to the influence of any social force/class within the society, as in the case of the Marxist concept.

Clearly, the two notions converge on what the state is, but they separate when it comes to the relationship between state and society. While the Marxist notion reduces the state to a specific social force/class within the society, and identifies coercive force as the essence of the state for protecting the interest of the said social force/class, the Weberian one regards the state as neutral. It emerges within the context of a general sociological process rationalizing society according to legal rules and principles. Such rules and principles constitute the essence of the state, and coercive force comes as a necessity to preserve these means of protecting society's welfare.

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<sup>6</sup> Theda Skocpol. *States & Social Revolutions: A comparative Analysis of France, Russia & China*. Cambridge: Cambridge University Press, 1979, Pp.24-28.

<sup>7</sup> Max Weber. *The Theory of Social and Economic Organization*. Talcott Parsons (eds.), New York: Oxford University Press, 1947, Pp.8-86.

## The 20<sup>th</sup> Century's State Theories

Most of the 20<sup>th</sup> century's theories of the state are built on either Marx's or Weber's notion of the state. Antoni Gramsci (1891-1937), drawing on Marx, conceived the state as an instrument in the hands of the dominant class and for the serving of it, but he expanded the means of social control to include ideological means alongside the coercive ones. Accordingly, Gramsci introduced us to his concept of '*Hegemony*', by which he meant "A mode of social control through which one group exerts its dominance over others by means of ideology."<sup>8</sup>

For Gramsci coercion secures state domination over society, but it does not secure state hegemony. To achieve hegemony over society, coercion should be complemented by ideological means of domination. Only this would enable state to gain the cultural and political support of the subordinated groups. Consequently, Gramsci provided the state as,

"the entire complex of practical and theoretical activities with which the ruling class not only maintains its dominance but manages to win the consent of those over whom it rules." Thus, state is "political society plus civil society" or in other words, "hegemony protected by the armour of coercion".<sup>9</sup>

Gramsci did not discuss how such a capitalist state comes into being. He was more interested in analyzing the relationship between state and society, than in explaining the process by which this state comes into being.

Paul M. Sweezy, too, in his *Modern Capital and other essays* argued the state as an instrument in the hands of the economically dominant class. In this regard he wrote,

"...The continued existence of monopoly capitalism depends on the existence or creation of sufficiently strong counteracting forces to permit the system to operate at a politically tolerable level of production and employment...; this therefore becomes increasingly the responsibility of the state, which, as noted above, has its primary task in assuring the smooth functioning of the accumulation process."<sup>10</sup>

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<sup>8</sup> James Martin. *Gramsci's Political Analysis: A Critical Introduction*. Basingstoke: Macmillian Press, 1998. P.66.

<sup>9</sup> quoted in Roger Simon. *Gramsci's Political Thought*. London: Lawrence & Wishart, 1982, P.71.

<sup>10</sup> Paul M. Sweezy. *Modern Capital and Other Essays*. New York & London: Monthly Review Press, 1972, Pp.8-9, 34.

Like Gramsci, Sweezy was not interested in studying the process through which the capitalist state emerges. His interest was in the international capitalist system, and in how such a system had developed during the 20<sup>th</sup> century.

Charles Tilly, in his distinguished essay entitled *Reflections on the History of European State Making*,<sup>11</sup> focused on the process through which the state comes into being. According to him, the main engine of building the state is tax extraction for military purposes. Military purposes necessitated the process of tax extraction, which in turn necessitated the process of establishing bureaucratic staff to extract tax, and to manage and coordinate the flow of revenue to the state. Army establishments are crucial in this context. They produce the means to support government control over the population, to promote territorial consolidation, centralization, differentiation of the governmental apparatus from other organizations, and monopolization of the means of coercive force. Accordingly, Tilly, based on Weber, introduced the state as

"an organization which controls the population occupying defined territory is a state in so far as (1) it is differentiated from other organizations operating in the same territory; (2) it is autonomous; (3) it is centralized; and (4) its divisions are formally coordinated with one another."<sup>12</sup>

Theda Skocpol in her *Theory of Revolution* agreed with Tilly on tax extraction as the main motor of state building, and strongly emphasized, in this regard, the administrative and coercive organization as the most important aspects of any state. The state, she declared, is

"A set of administrative, policing, and military organizations headed, and more or less well coordinated by, an executive authority. Any state first and fundamentally extracts resources from society and deploys these to create and support coercive and administrative organizations."<sup>13</sup>

Michael Mann accepted the coercive force as an aspect of the state, but he refused to consider it, as was the case with Skocpol, as basis of the state. Instead, he highly emphasized the monopoly of making binding rules, and the centralized functional institutions, as the most important foundations of any state. The state, he wrote, is

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<sup>11</sup> Tilly op.cit.

<sup>12</sup> Ibid., P.70.

<sup>13</sup> Skocpol op.cit., P.29.

1. A *differentiated* set of institutions and personnel embodying
2. *Centrality* in the sense that political forces radiate outwards from a center to cover
3. A *territorially* demarcated area, over which it exercises
4. A monopoly of *authoritative, binding rule-making*, backed up by a monopoly of the means of physical violence.<sup>14</sup>

Joel S. Migdal emphasized also these binding rules as the base of any state. In this regard, he cited the state as an organization that had as its major function

"...To make and implement the binding rules for all the people as well as the parameters of rule making for other social organizations in a given territory, using force if necessary to have its way."<sup>15</sup>

Clearly, the underlying assumption of the Weberian perspective is that the state is differentiated, distinctive, separate from society, and strong enough to lead it. There is no space within this perspective for society to influence state. Society is always seen as a dependent variable while state is an independent one. In other words, the state is the entity that is responsible for solving the crucial questions concerning society, and in creating historical changes.

## **Towards an Advanced Definition of the State**

The above brief survey of state theories shows the basic conditions of any modern state. Evidently, any organization which controls a given population in a well-defined territory, and has the ability to issue binding rules for its population and to monopolize the levers of coercion, is called a state. Given those basic features of a state, scholars might vary in their perception of the relationship between state and society. The Marxist perspective is extremely reductive in the sense that it conceives the nature of the state-society relationship to be rooted in the economic structure. At the same time, the Weberian perspective is extremely static in the sense that it conceives the state to be an undifferentiated entity with a homogenous interest.

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<sup>14</sup> Michael Mann. *States, War and Capitalism: Studies in Political Sociology*. Oxford UK & Cambridge USA: Blackwell Publishers, 1988, P.4.

<sup>15</sup> Joel S. Migdal. *Strong Societies and Weak States: State-Society Relations and State Capabilities in the Third World*. Princeton & New Jersey: Princeton University Press, 1988, P.19.

Bo Strath and Rolf Torstendahl in their *State Theory and State Development*<sup>16</sup> rejected the Marxist and Weberian perspectives on the state-society relationship, and developed a new perspective on that relationship. In doing so, they traced how the state had developed since 1800, from the early capitalist state until it reached its current form of modern welfare state. After explaining how the state had developed to its current form, they arrived at a more holistic, reciprocal, and dynamic vision of the state-society relationship.

According to them, the form of any state is not the outcome of the interest of a specific social force/class, or the state agents' interest. The state can not be reduced to a specific social force/class, nor yet can it be reduced to the interest of state agents. Rather, the state's form is the outcome of the reciprocal influences of social forces/classes and state agents. In other words, the state is influenced by the interests of different social forces/classes within the society, but it is not a mirror of such interests, since it reflects also the interest of state agents. In this sense the state is autonomous but, at the same time, influenced by the society.

Charles Bright & Susan Harding highlighted also the influence of social forces on the state, as they consider state building to be a question of state agents' initiatives, as well as of social forces reacting to such initiatives. But, they added the competition between the politicians and bureaucratic agents, who can develop and defend their own interest in the face of the politicians, as another factor that influences the form of a state. The state, according to them, is

"A distinct realm of structural political relations that is defined by contentions along its boundaries and among politicians and bureaucrats who, in competing for office and influence, rework social and economic conflict into political terms. These contentions both define the state vis-à-vis other social and economic institutions and continually re-make the state."<sup>17</sup>

Although Charles Bright & Susan Harding highlighted the state as a differentiated organization that formed two competitive parts, the bureaucracy and the politicians, they remained unable to explain how these two parts might be influenced in different degrees by different social groups or forces, an issue which is heavily emphasized by

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<sup>16</sup> Strath & Torstendahl op.cit., Pp.12-37.

<sup>17</sup> Bright & Harding op.cit., P.4.

Joel S. Migdal in his *State in Society: an approach to struggle for domination*.<sup>18</sup>

Migdal went a step further and regarded the state as an organization formed of not just two parts, but of many different parts with different interests. These parts, according to him, are in a continuous competitive engagement with other social forces. Such engagement includes the top policy makers, legislators, law enforcement personnel (executive bodies), the state's policy implementation structure (bureaucracy system), and so on. The new contribution of Migdal is his assertion that through such engagement the different parts of the state, according to different interests they encompass, react and responds differently to the pressures they are exposed to.

The overall reactions of different parts of the state and different social forces resulting from such competitive engagement decide the pattern of domination in the society. It decides the extent to which the state can assume a full coherent domination and complete control over society, and thus act in a coherent fashion (integrated domination or centralization), or to which neither the state nor any other social forces have full domination in the country (non-integrated or dispersed domination or decentralization).

Generally speaking, the state is seen as an organization that monopolizes coercion as a means to support its major function of issuing binding rules for a given population occupying a given territory. For Charles Bright & Susan Harding (1984) and Bo Strath & Rolf Torstendahl (1992) the state must not be seen in a static way. Rather, the state is placed in a social context that influences and is influenced by it, and therefore affects the state's form. Also the state must be placed within its international environment, which also influences its form. For Migdal (1994), moreover, the state must be seen not in a coherent, but in a heterogeneous fashion, in which its different agencies exhibit different interests and continuously interact with other social forces in the society.

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<sup>18</sup> Joel Migdal. "The State in Society: an approach to Struggle for Domination". In Joel Migdal & others (eds.), *State Power and Social Forces: Domination and Transformation in the Third World*. Cambridge: Cambridge University Press, 1994, Pp.8-34. See also Migdal op.cit, Pp.10-41.



Accordingly, and drawing on the above-mentioned scholars' discussion, it's possible to conclude the state as an organization that

1. Monopolizes coercive force and has extractive capacity (tax collection).
2. Constitutes the ultimate source of the legally binding rules for the population.
3. Works in a well-defined territory.
4. Controls the population which occupies this territory.
5. Forms agencies with different interests.
6. Locates within a social context which it influences and by which it is influenced.
7. Engages in international activities.

Conceiving of the state according to the above-mentioned paradigm sheds light on issues that lie at the heart of any state. Issues such as state differentiation, state agency coordination, autonomy, and centralization seem to be, as Tilly emphasized, a major criterion by which one can judge the degree of statehood in any country.<sup>19</sup>

The process of statehood necessitates the establishment of well-coordinated agencies (legislative, executive, judicial agencies) that are differentiated from other economic or social organizations within the society, a task that is heavily connected with state autonomy. State autonomy seems to be an extremely vague concept.

For example, Charles Bright & Susan Harding stressed that state autonomy lay in its ability to self-regulate, in the sense that it was governed by its own law, and not influenced by other internal or external forces.<sup>20</sup>

Joel Migdal sheds light on the actions of state officials, considering the state to be autonomous when state officials have the capacity to act upon their own preferences.<sup>21</sup>

Bo Strath and Rolf Torstendahl refused to consider state autonomy as an empirically-oriented concept, rather asserting that state autonomy is an "amorphous" concept.<sup>22</sup>

Theda Skocpol rejected such an idea, asserting that the state can be, to some extent,

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<sup>19</sup> Tilly op.cit., Pp.34-35.

<sup>20</sup> Bright & Harding op.cit., P.4.

<sup>21</sup> Migdal . *Strong Societies*, op.cit., Pp.18-19.

<sup>22</sup> Strath & Torstendahl op.cit., p.15

autonomous, and this can be measured by looking at the administrative and military institutions of the state. These institutions, she had emphasized, are the basis of state power (as the resources in the society are extracted for them), and have the potential of being autonomous (in their relationship to the social forces, and in their relationship to other states). To what extent they are autonomous can be explained "...in terms specific to particular types of socio-political systems and to particular sets of historical international circumstances."<sup>23</sup>

The concept of state centralization seems to be strongly related to the concept of state autonomy. State centralization, in the sense of its ability to get its people to obey its rules and to absorb and monopolize them toward its legal and moral framework, seems to be the normative foundation of state power, or what Michael Mann called the "infrastructural power".<sup>24</sup> According to Mann the source of the state's real power is to be found not in its ability to monopolize the sources of coercive force, but in its ability to penetrate the society and to implement its authoritative legal rules throughout the whole society, in a way that secures the dominance of such rules over any other rules within the society. The state's authoritative legal rules must triumph over any ethnic, clan, familial, or any other social-force-based rules (primacy).

### ***State in the Arab World***

The previous debate over the nature of the state and its relation with society is, in fact, Eurocentric. It reflects a specific historical European context, in particular the context of feudalism, in which power was fused between long-established nobles, who enjoyed specific privileges in their relationship with the central authority (the king), and their relationship with their subjects (serfs). A group of reciprocal rights and duties resting on customary law had organized the above-mentioned two relationships.

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The decentralized nature of feudalism created equal and competitive power centers (the estate). Each power centre was controlled by a noble class, and constituted an autonomous political unit. The basic social organization of such system was the

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<sup>23</sup> Skocpol op.cit., P.30

<sup>24</sup> Mann op.cit., Pp.5-30.

<sup>25</sup> Bendix op.cit, Pp.39-48, & Bertrand B. & Pierre B. *The Sociology of the State*. Chicago: The University of Chicago Press, 1983, Pp. 6-10, 79-85.

peasantry society engaged in subsistence production as the dominant mode of production. The political decentralization of the feudal system was associated with non-concentration of the land-surplus in the hand of specific social forces. The three basic social forces of this system (peasants, the noble class, and King together with the church) shared, with varying degrees, land surplus.

The dominance of such modes of production, and the absence of any parallel modes of production (such as the tribal mode of production), were, according to Tilly, the necessary historical conditions that made it possible for the nation-state to emerge in Europe,<sup>26</sup> since it introduced a unified ideological superstructure (the peasant culture), among Europeans. Hence, when the state emerged it emerged as a manifestation of the European ruling class's attempts to accentuate the diversity of European societies (or to accentuate the notion of "We"). That is why it is possible now to talk about the French nation-state, the German nation-state, and so on.

While the historical economic infrastructure of Europe promoted horizontal power relations, and consequently, produced nation-states with a major emphasis on the individual as a self-standing entity, the historical economic infrastructure of the Arab world promoted vertical power relations, and consequently, produced empires with major emphasis on the individual. However, this individual was not regarded as a self-standing entity, but rather as "part of the whole".

With the exception of Egypt, which has a long history of a peasant society, most of the Arab World experienced the tribal social formation. The economic infrastructure of this social formation (pastoral activities) produced a cultural superstructure in which the group constituted the "basis for identity, political allegiance, and behavior" and the "...personal, moral, and ascriptive factors..."<sup>27</sup> constituted the basis for individual status.

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<sup>26</sup> Tilly op.cit., Pp.28-29.

<sup>27</sup> Richard Tapper. "Anthropologists, Historians, and Tribespeople on Tribe and State Formation in the Middle East". In Philip S. Khoury & Joseph Kostiner (ed.). *Tribes and State formation in the Middle East*. Berkeley: University of California Press, 1990, P. 68.

Without exception, Arab tribes were linked by blood lineage, or what Ibn Khaldun called *asabiyya*.<sup>28</sup> It was this biological linkage (*asabiyya*) which enabled the Arab tribes in the Gulf countries to extract the *Khawa* (tribute) under the threat of sword from merchants carrying out long-distance trade activities.<sup>29</sup> And it was the one which enabled tribes in North Africa (Algeria, Morocco, and Tunisia) to raid urban centers, and confiscate their treasures. The important factor here is that this tribal social formation does not imply, as Nazih Ayubi observed, the traditional Marxist correspondence between the mode of production (infrastructure), and the political and ideological superstructures.<sup>30</sup> Indeed, the absence of the mode of production that distinguishes this tribal formation (pastoral economy) does not imply, for example, the absence of the cultural manifestation of this mode, or the political pattern associated with it, in spite of the fact that this cultural manifestation and political pattern, might take different forms.

With the introduction of Islam in the seventh century the tribal cohesion or blood cohesion was subjected to a process of Islamization. In other words, most of the Arab tribes were reorganized within the framework of the newly emerged Islamic *umma* governed by the new religious rules and principles. These rules and principles were derived from the *Shari'a* which is derived from the Muslim holy book (the *Qur'an*), the Islamic *Sunni* (denotes Prophet Muhammad's sayings, actions, and orders- "*Hadith*"), and the Muslim jurists *ijma'* (consensus).<sup>31</sup> The *Shari'a* formed a new "legal" recourse to unite all Arab tribes within the framework of the Islamic *Umma* (Islamic community).

Though Prophet Mohammad succeeded in recruiting the traditional *asabiyya* for his cause (the Islam), his success in this respect was short-lived. Islamic history shows clearly how this *asabiyya* was re-born again after Mohammad's death and played a significant role in the creation of the Islamic-dynasty-based empires such as the

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<sup>28</sup> Steven C. Caton. "Anthropological Theories of Tribe and State Formation in the Middle East: Ideology and the Semiotics of Power", In *ibid*. Pp85-103.

<sup>29</sup> Khaldoun Al-Naqeeb. *Society and States in the Gulf and Arab Peninsula: A different Perspective*. London: Routledge, 1990, Pp.6-21.

<sup>30</sup> Nazih N. Ayubi. *Over-Stating the Arab State: Politics and Society in the Middle East*. London & New York: I.B. Tauris Publishers, 1995, Pp.24-30.

<sup>31</sup> Albert Hourani. *Arabic Thought in the Liberal Age: 1798-1939*. Oxford: Oxford University Press, 1970, Pp.1-7.

Umayyad (AD 660-750), and Abbasid (AD 750-1258) empires, and finally the Ottoman empire, which could take control over most of the Arab world in 16th and 17<sup>th</sup> centuries, and then ruled it for about 400 years.<sup>32</sup>

With the rise of Ottomans to power, and their success in diffusing their rule over most of the Arab world, Arabs, for the first time since the introduction of Islam, lost control over their future, and their fate became very much connected to the fate of another race (Ottomans). During the first half of the 19<sup>th</sup> century, Ottomans underwent significant developments, the most important of which was the rebellion of the *Wali* of Egypt, Mohammad Ali, against the central authority in Istanbul.

The event strongly alarmed Ottomans who, since then, have exhibited deep concern over the emergence of a centre of political activities or opposition to their rule. Driven by this concern, and seeking military support, Ottomans forged alliances with Western powers (mainly Britain). In exchange for this support, Ottomans bowed to Western powers' demands and signed the "Treaty of Free Trade and Friendship" in 1838.<sup>33</sup> The treaty, which diminished Ottoman's control over their economy, left the territories of the empire open to foreign products and investment,<sup>34</sup> and consequently, initiated the crystallization of the empire's economy as a peripheral one in the international economic system.

The incorporation of the Ottoman Empire into the international economic system broke the basic foundations of the empire's political economy, and left the Ottomans unable to control the production and distribution of the economic surplus, as was the case before 1838 (within the context of the Asiatic mode of production which was followed by Ottomans).<sup>35</sup> The response of the Ottomans to this development was a group of reform measures (*Tanzimat*) which sought to change the mode of

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<sup>32</sup> For excellent assessment on these empires see Ayubi op.cit., Pp55-80.

<sup>33</sup> Resat Kasaba. *The Ottoman Empire and The World Economy in Nineteenth Century*. Albany, NY: State University of New York Press, 1988. Pp54-55.

<sup>34</sup> For example, these treaties set 5% as tariff on import, and 12% as tariff on export. See Sevkettin Pamuk. *The Ottoman Empire and European Capitalism, 1820-1913: Trade, Investment and production*. Cambridge: Cambridge University Press, 1987, P.20.

<sup>35</sup> Huri Islamoglu-Inan (ed.). *The Ottoman Empire and the World Economy*. Cambridge: Cambridge University Press, 1987, Pp.47-62.

organization of the state apparatus. But these measures were inspired by the Western model, and thus, were alien from the socioeconomic infrastructure of the empire.

This fact brought state into conflict with local population who perceived the *tanzimat* as a radical break in the basic foundation of the empire.<sup>36</sup> As a result, the state started to loose its legitimacy in the eyes of its inhabitants, in a way that enabled Western powers to subject most of the Gulf countries to their tutelage, and later, in the last two decades of the 19<sup>th</sup> century, to occupy most of the Arab Countries in North Africa. The growing weakness of the empire was further manifested in the emergence of separatist national movements during the first decade of 20<sup>th</sup> century. The most notable of these movements was the “Young Turks” which advocated the turkization of the empire, and opposed the autocratic regime of Sultan Abdellhamid. In 1908, this movement revolted against the Abdellhamid regime, and succeeded in seizing power.<sup>37</sup>

The success of the Young Turks in seizing power became a standard-bearing example for other nations of the empire, among which was the Arab nation. Accordingly, Pan-Arabic organizations and movements started to appear on the scene from then onward. The most notable of these organizations and movements was *El Qahtaniya* (founded in 1909 by group of Arab officers of high rank in the Ottoman army), *Al Fatah* (founded by a group of young students in Paris in 1911) and the “Ottoman decentralization Party” (founded in 1912 by group of Arab activists).<sup>38</sup> All of these movements and organizations emphasized the particular nature of Arabs as an ethnic group with a similar history, language, culture, religion, and so forth.

This emphasis was the instrument through which these organizations and movements sought to legitimize their demands either in an independent Arab state or some self-rule arrangements. Towards this end, Sharif Hussein, the member of Hashemite clan to which the Prophet Muhammad belonged, and the guardian of the holy places in the

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<sup>36</sup> For discussion over the Ottoman reform and its ramifications see Moshe Ma'oz. *Ottoman Reform in Syria and Palestine 1840-1861: the impact of the Tanzimat on Politics and Society*. Oxford: Clarendon Press, 1968.

<sup>37</sup> For excellent assessment over the “Young Turks” revolt see the first three chapters (Pp.20-70) of A.L. Macfie. *The End of the Ottoman Empire: 1908-1923*. London & New York: Longman, 1998.

<sup>38</sup> George Antonius. *The Arab Awakening: The Story of the Arab National Movement*. Lebanon: Hamish Hamilton, 1976, Pp.109-112.

Arabian Peninsula, engaged in secrete negotiations with the British commissioner to Egypt, Sir. Henry McMahon.

Through these negotiations, which took the form of an exchange of letters between the two men, Hussein sought to enlist Britain on the side of his demands for an independent Arab monarchy under his throne, in exchange for uprising against the Ottoman regime, which became one of Britain's foes due to its alliance with Germany, the chief foe for Britain during the First World War. In the period of July 1915- to January 1916, eight letters were exchanged between Hussein and McMahon.

The most notable of these letters was the one dated on 24 October, 1915. In this letter, McMahon declared British support for the establishment of an independent Arab state in the territories covering Greater Syria (excluding the portions located to the West of Damascus, Homs, Hama, and Aleppo), most of Iraq, as well as the Arabian Peninsula (except Aden).<sup>39</sup> But all of these letters were to no avail, as in May 1916 Britain secretly signed the so called Sykes-Picot agreement with France. The agreement divided the Arab East into areas of direct and indirect control under France and Britain, and consequently, completed colonial control over the whole of the Arab world.

The post-War San Rimo peace conference in 1920 formally recognized mandatory rights of Britain to Palestine, Iraq, and Transjordan, and of France to Syria, and Lebanon. The legitimacy of these mandates was secured by the ratification of the League of Nations in July 1922. Once they assumed their rule over the region the colonial powers sought to create a new geographical, economic, and political reality adequate to their own knowledge and needs. The aim was to weaken the Pan-Arabism scheme in favour of the Western-based national state scheme.

### **The Post-Colonial Arab State: A state against Society**

The above-mentioned historical overview shows clearly that the Arab state, in the Western sense, was the outcome of two interrelated variables: the dissolution of the last Islamic empire (Ottoman Empire) and the subsequent rise of Western colonial

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<sup>39</sup> Appendix "A" (Pp.413-427) in Ibid .

hegemony in the region. Among the most notable impacts of the colonial era was the imposition of artificial borders, and the significant reform in the socioeconomic infrastructure of the region. As Ayubi observed, the colonial powers were “...the most instrumental in drawing up boundaries in roughly their present form, in redirecting economic relations away from the Middle East and towards Europe...in defining - often very artificially - the units that were to be singled out as distinct states”<sup>40</sup>

The new borders were, therefore, the geographical manifestations of more profound changes in the basic premises of the political economy. The most notable of these changes, Samir Amin argues, resulted from the colonial policy of redirecting the economy, in particular the agriculture sector, to the needs of international economic system. Most of the colonial powers, Amin asserted, sought to privatize the system of land ownership, and consequently, redistributed land among those who exhibited readiness to cooperate, mostly among tribal Sheikhs and urban notables.<sup>41</sup>

All related sectors necessary for promoting agricultural commercialization were developed: railways were built, roads, irrigation networks were established or improved, and credit institutions emerged. In addition, some forms of parliamentary democracy were advanced, but the access to political life remained confined to special stratum within the society; tribal sheikhs, urban notables (in the Arab East mainly), and the aristocratic class (mainly in Egypt).

When Arab states gained independence after the Second World War, a large number of them tended to eliminate the economic and political legacy of the colonial era (e.g., the life of the semi-parties). This trend was obvious in countries like Egypt, Algeria, Tunisia, Iraq, and Syria, in the period of 1950s-1970.<sup>42</sup> In these countries, where the nationalists (e.g., the Free Officers in Egypt, National Liberation Front in Algeria, the Ba’ath in Syria and Iraq, the regime of Habib Bourguiba in Tunisia) replaced traditional tribal Sheikhs and semi-aristocratic classes in power. The nationalists were

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<sup>40</sup> Ayubi op.cit., P. 86.

<sup>41</sup> Samir Amin. *The Arab Nation: Nationalism and Class Struggles*. London: Zed Press, 1978, Pp.25-30.

<sup>42</sup> Roger Owen. *State, Power & Politics in the Making of Modern Middle East*. London & New York: Routledge, 1992, Pp.32-52.



driven by a desire to promote economic development for the welfare of the people and so adopted a state-led import-substitution scheme.

Large scale industrialization programs, therefore, were advanced, and hence, bureaucracy was expanded so that the state would be able to assume control over economy.<sup>43</sup> To meet the increasing demand of the expanded bureaucracy for civil servants, education was encouraged, and made available to lower classes. While the state assumed control over the industrial sector, it tended to assume control also over the agricultural sector.

Without exception, all countries in this case brought a considerable amount of agricultural land under state control as a means to break away from the unfair colonial distribution of land, which enabled about 1% of the population in Egypt to control 70% of the cultivatable land, and 3% of Iraqi landowners to control about 66% of the agriculture land, and one Syrian family to control 36 villages!<sup>44</sup>

The nationalists did not only seek to break away from the economic arrangements of the colonial era, but also from the political arrangements as well. Once they assumed power, they set up a single-party regime, and made their party the only legitimate institution (e.g., the National Union and later the Arab Socialist Union in Egypt, the Neo-Destour in Tunisia which was renamed *Parti Socialist Destourien* “PSD” in 1964, National Liberation Front in Algeria, and the Ba’ath in Syria and Iraq) for political participation. All other political parties were dissolved, or declared illegal. Other forms of horizontal associations like the functional associations (agricultural associations, women’s associations, industrial association, and so forth) were either co-opted within the regime, or, in case they challenged the regime (through opposing

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<sup>43</sup> In Egypt, for instance, the number of civil servants increased from 350,000 in 1952 to 1,200,000 in 1970. And the number of ministries and public organizations increased from 15 to 28, and from 0 to 46 respectively during the same period. See Nazih N. Ayubi. *The State and Public Policies in Egypt Since Sadat*. Reading: Ithaca Press, 1991, P.108. The same trend can be noticed in Tunisia as the number of civil servants shifted from 12,000 in 1955 to 80,000 in 1960. See Lisa Anderson. *The State and Social Transformation in Tunisia and Libya: 1830-1980*. Princeton: Princeton University Press, 1986, Pp.235-236.

<sup>44</sup> Khaldoun Al-Naqeeb. “Social Origin of the Authoritarian State in the Arab East”. In Eric Davis and Nicolas Gavrielide (eds.). *Statecraft in the Middle East: Oil, Historical Memory and Popular Culture*. Miami: Florida International University Press, 1991, P. 51 & Simon Bromley. *Rethinking Middle East Politics: State Formation and Development*. Cambridge: Polity Press, 1994, P.131.

the hegemony of the single party over the political life) declared against the national interest.<sup>45</sup>

The appeal to national interest was one tool among so many other tools used by these nationalists to preserve their regime. The most important of these tools is the military. Having arrived at power mostly through military coups, most of these nationalists sought to prevent the development of the military outside of their control, in order to prevent a possible counter-coup.<sup>46</sup> The method to achieve this goal was the carrot policy. Through this policy, they permitted generals and other members of the military to enter civilian economic and political life, and consequently, promoted common interest between technocrats and generals who forged alliances with each other in support of the *status-quo* (the single-party regime). In so doing, they kept the military at their disposal, and furthermore, mobilized it to serve their oppressive policy toward society.

In Gulf Countries, and unlike the above-mentioned countries which experienced single-party rule in the period of 1950s-1970, family rule dominated. The root of this rule is dated back to the last decade of the second half of 19<sup>th</sup> century, when Britain succeeded in occupying Aden in 1839, and thereafter started to assume gradual control over the main traffic through world trade routes. With this control, Britain was able to impose the capitalist mode of trade over long-distance trade, the latter of which had dominated the region for hundreds of years. Though the introduction of the capitalist mode of trade was received with opposition by some dynasties, other dynasties tolerated this development, and consequently were promoted to power under the protection and tutelage of Britain.<sup>47</sup>

The state emerged, therefore, as the outcome of the interaction between two variables: the withdrawal of long distance trade in favor of the capitalist mode of trade, and second, the alliance of Britain with some cooperative dynasties. These dynasties are

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<sup>45</sup> Anoushir Van Ehteshami & Emma C Murphy. "Transformation of the Corporatist State in the Middle East." In *Third World Quarterly*, Vol. 17, No.4, 1996, Pp.753-755.

<sup>46</sup> Ibid., Pp.755-756.

<sup>47</sup> Al-Naqeeb. *Society and States in the Gulf*, op.cit., Pp.47-64.

the ones which assumed rule over Gulf countries, since then until the present day. Concerning Saudia Arabia, it can be claimed that the emergence of the state there was the outcome of the alliance between religion and chiefdom. Unlike other Gulf countries in which tribal chieftains depended on trade as major source of revenue, Saudia Arabia's tribal chieftains depended on pilgrims as the main sources of revenue.

When the founder of Saudia Arabia Abdel Aziz Ibn Saud was born in 1882, the area was under control by the Rashid clan, the main rival of the Saud clan; which experienced weakness in the early 19<sup>th</sup> century due to the fragmentation of its main ally, the Wahabi Islamic reform movement founded by Muhammad Abdel El Wahab in 18<sup>th</sup> century. In 1906, Ibn Saud managed to defeat the Rashid clan, and consequently, removed the main obstacle in his way to build his kingdom. Ibn Saud's remarkable war skills were backed by his success in introducing himself as a religious leader when he founded the Ikhwan (Brotherhood) movement as a renewed version of the Wahabi movement. In so doing, Ibn Saud succeeded in gaining other tribes' loyalty, and hence, was able to extend his control over the whole of Saudia Arabia by 1934.<sup>48</sup>

Together with the Gulf sheikhdoms, alongside Moroccan and Jordanian Monarchs, Ibn Saud adopted a family rule characterized by "a great concentration of highly personalized power, a marked reluctance to permit the existence of political parties, trade unions or similar organizations (except in Morocco), limited social mobilization and a basic commitment to private economic enterprise".<sup>49</sup>

In essence, thus, the family regime which emerged in the Gulf countries, Saudia Arabia, Jordan, and Morocco, did not differ from the single-party regime which emerged in the Arab East, Tunisia, Algeria, and Egypt in 1950s-1970. Both regimes extended state control over the economy, abrogated the development of any horizontal associations far from their control, monopolized access to political power, and expanded the size of the central government apparatus (e.g., the bureaucracy). Despite this, both of them used different tools to preserve their regime.

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<sup>48</sup> James A. Bill & Carl Leiden. *The Middle East: Politics and Power*. Boston, London, Sydney, & Toronto: Allyn & Bacon, Inc., 1974, Pp.124-133. See also Joseph Kostiner."Transformation Dualities: Tribe and State formation in Saudia Arabia". In Khoury & Kostiner (ed.), op.cit., Pp. 226-233.

<sup>49</sup> Owen op.cit., P.56.

While the single-party regimes in the Arab East, Tunisia, Algeria, and Egypt relied upon the myth of “national security”, coupled with military and intelligence services to preserve their regime, the Gulf Sheikdoms and Arab monarchs relied upon the myth of noble family lineage, noble deeds, and descent from Prophet Mohammad (Morocco and Jordan are good examples) to preserve their regime.

Alongside the claimed noble lineage and other subjective factors, the Gulf Sheikdoms and Arab monarchs managed to develop a clear mechanism of succession, and consequently, kept intra-family rivalry at minimum. In addition to this, all of them kept control over the main and sensitive positions in the state. Members of these families occupied positions like Minister of Defense, Foreign Minister, Minister of Interior, and so forth. Furthermore, most of them forged alliances with the main traditional elements in society (big tribes for example) that have traditionally been reluctant to any form of modern horizontal associations (political parties, functional associations, and so forth) and hence, had interests in the ongoing political arrangements (the family rule).<sup>50</sup>

With the oil boom in the 1970s, these families (excluding the Hashemite and Alawi families in Jordan and Morocco respectively) were endowed with additional resources in support of their rule. Through oil revenues they were able to limit, even end altogether, their dependence on citizens as a source of revenue (through taxes), and consequently, they could assume full autonomy from society. At the same time, oil revenues enabled these families to buy off the allegiance of their citizens through providing them with the necessary public goods and services (education, health, security, social security, infrastructure, and so forth) without asking for any taxes (or asking for minimum taxes). This promoted a situation where citizens, as Hazem Beblawi argues, are:

“...far less demanding in terms of public participation. The history of democracy owes its beginnings, it is well known, to some fiscal association (no taxation without representation). The government’s budget in the oil states remains a one-sided document, an expenditure programme, a promise to spend money and distribute

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<sup>50</sup> See Ibid., Pp.56-63.

benefits to the population with virtually no levy on them in terms of taxes or similar impositions.”<sup>51</sup>

States in Gulf Countries and Saudia Arabia emerged, thus, as a typical model of a Rentier state. Here we are talking about a state in which the government’s main function is to allocate revenue accruing to it - not because it shared in producing this revenue, but because it leased or rented its territories to foreign productive forces to produce this revenue. Though all states perform or seek to perform an allocative function, allocation for Gulf States and Arabia, Giacomo Luciani asserts, “...is the only relationship that they need to have with domestic economy...”<sup>52</sup>

In this sense, the high per-capita income and the welfare features of these countries do not indicate real growth in the productive capacity of society, rather, it indicates a state tendency (the ruling family in our case) to corrupt society through distributing favors and benefits as a means to gain allegiance, and accordingly, to remain in power. While this policy promotes citizens’ economic prosperity, it leaves questions related to democracy and the public’s access to political power unresolved. In these countries, Ferrel Heady asserts,

“...political activity is severely curtailed. Competitive politics is usually not permitted. Political parties and associational interest groups with diverse programs are not tolerated or are weak. On the other hand, the political elite does not attempt to mobilize the mass of the population in any official political movement, and little interest is shown in articulating a political ideology. A political attitude of acquiescence and conformity in the community suits the dominant elite, and it is not inclined to invite trouble by pushing hard for programs to...stimulate political awareness.”<sup>53</sup>

The effect of oil revenues was not limited to the politics of Gulf States and Arabia only, but extended to the politics of oil poor countries like Egypt for example. The rise of the petrodollar, coupled with the internal pressure the Egyptian government encountered after 1973’s war to promote economic reform, were two factors, among other factors, which promoted the Egyptian departure away from state-led

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<sup>51</sup> Hazem Beblawi. “The Rentier State in the Arab World”. In Hazem Beblawi & Giacomo Luciani (eds.), *The Rentier State*. London: Croom Helm, Vol. II, 1987, Pp.53-54.

<sup>52</sup> Giacomo Luciani. “ Allocation vs. Production States: A Theoretical Framework”. In *ibid.*, P.70.

<sup>53</sup> Ferrel Heady. *Public Administration: A Comparative Perspective*. New York, Basel, & Hong Kong: Marcel Dekker, Inc., 1996, 5th edition, Pp.333-334.

development (as it was the case in 1950s-1970), and towards the policy of *infitah* (open-door economic policy) since 1974 onward.<sup>54</sup>

Within the context of this policy, President Sadat of Egypt promulgated hundreds of laws and regulations that sought to encourage foreign and local investment, minimize state intervention in economic enterprise, create private financial institutions, release bureaucratic restrictions, and create free zones. Due to these laws and regulations, huge sums were invested in Egypt by oil-rich Arab countries, and other loans were granted to Egypt by the International Financial Institutions (e.g., World Bank, IMF), European countries, and the US. These funds, which were used in investment projects, sought to promote the productive capacity of the country, and hence, produce economic growth.

It is not the aim here to discuss the reasons for why this goal remained unattainable, but it is worth mentioning that the absence of legal certainty caused by frequent changes in laws, coupled with the lack of coordination between various bureaucratic levels, alongside the denial of investors' access to information, led to a situation where only 32% of all projects approved by Egyptian government (or the national investment authority which was created by the government for authorizing investment projects) had started operation by the end of 1978. These projects, mainly service projects (tourism, banking, housing, and so forth), employed only 11% of the labour forces that were supposed to be employed by the approved projects.<sup>55</sup>

The fact that most of these projects were of a services nature led to a serious shortage in the basic products (wheat, sugar, and so forth), and promoted the creation of semi-monopolistic merchants, who, taking advantage of the *infitah*, and supported by corrupted bureaucratic system, created black markets, and pushed basic products' prices to unprecedented levels. This development promoted the creation of a commercial bourgeoisie. Interestingly enough, this bourgeoisie, which benefited most from the *infitah*, managed to develop a common interest with the old technocratic-generals alliance which was, as we have seen, the group which benefited most under Nasser rule (during 1950s-1970). The three groups (technocratic, Generals, and

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<sup>54</sup> Ayubi. *The State and Public Policies*, op.cit., Pp.9-20.

<sup>55</sup> Ibid., P.46.

commercial bourgeoisie) succeeded, therefore, to enrich themselves at the expense of the disadvantaged majority of population<sup>56</sup>

The integration of upper elements of Nasser regime into the new system was accompanied with the disintegration of the lower elements (grassroots) of the same regime. The Arab Socialist Union, which mobilized the grassroots elements under the Nasser regime, was disintegrated into three separate parties.<sup>57</sup> Furthermore, the real opposition parties (the new Wafd, and the Progressive Party for instance) were placed under strict watch, and denied many rights (e.g., right of association and publication). Meanwhile, moderate opposition parties were created (e.g., Al Amal party) to offer mild criticism for the regime. To ensure support for these arrangements, President Sadat opened channels for private-sector interest groups (which had an interest in the *status quo* of *infitah*) to affect the major policy decisions, notably through the specialized committees of the people's assembly and the public role assigned to the three representatives of major businessmen's associations who were placed on the board of the national investment authority.<sup>58</sup>

This misleading political openness did not hide the real state of affairs of the mode of government in Egypt. In short, the President of Egypt remained the most important political actor (as it was the case of the one-party regime in 1950s-1970). He, for instance, stood above all the political institutions of state. He monopolized the country's key decisions, and most importantly, his term in office was for life, unless he was forced to leave his office by a coup or death. Alongside this was the fact that the opposition was not permitted to develop in an effective manner. Furthermore, human rights issues remained a serious problem as Sadat promulgated Law Number 2 of 1977, which declared a state of emergency that provided a punishment of life imprisonment for "illegal assembly" or strike.<sup>59</sup> The case of *infitah* might serve as evidence showing the lack of correspondence between economic liberalization and democracy in the third world countries, and in the Arab world in particular.

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<sup>56</sup> See chapter three (Pp.53-85) in *Ibid.*,

<sup>57</sup> Ehteshami & Murphy op.cit., P.761.

<sup>58</sup> Owen op.cit., P.144.

<sup>59</sup> Bahgat Korany, Paul Noble, & Rex Brynen (eds.). *The Many Faces of National Security in the Arab World*. Houndmills: The Macmillan Press, 1993, Pp.269-270.

In Tunisia the attempts to promote the private sector since 1971 onward was not accompanied with some form of political relaxation to incorporate the resultant interest groups without discrimination. In other words, Borugouiba, whose term in office became a life term since 1971 onward, remained the main political actor, and stood above all the political institutions. In a similar fashion to the socialist period, the commercial agricultural bourgeoisie, which was considered the historical ally of Borugouiba, remained the most politically franchised group. This fact brought the state into conflict with society, in particular with Tunisian workers employed in private sector projects since 1971 onward.

These workers, as a conscious interest group consolidated during the second half of the 1970s, were directly affected by state policies, in particular the policy of lowering wages to attract foreign investment. Consequently, this interest group pressured for political representation so that it could influence major decisions of state policy. When the state became aware of this group's demand, it blocked all of their channels to political power. Wide scale demonstrations, therefore, broke out throughout 1977 and early 1978. The State responded with further oppressive measures against these workers and their institutions (labour unions), and their allies (the students and the disadvantaged peasants). Many of the labour union leaders, workers, and students, were either detained or shot to death.<sup>60</sup>

The demonstrations in Tunisia were one sample of a series of demonstrations which erupted in the Arab world in protest of the policy of economic liberalization, in particular the IMF-negotiated structural adjustments programs. In Egypt, for instance, the dramatic increase in the prices of the basis products led to wide-scale demonstrations in 1977. Morocco experienced similar unrest in response to the cut of government expenditure in 1980, 1981, and 1984. The pattern was repeated in Tunisia in 1984, Sudan in 1985, Algeria in 1988, and Jordan in 1989.<sup>61</sup>

These demonstrations protested not only the policy of economic liberalization, but also the social injustice and lack of democratization associated with this policy. Without exception, Arab rulers were unwilling to answer these fundamental questions

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<sup>60</sup> Anderson op.cit., Pp.231-250.

<sup>61</sup> Ehteshami & Murphy op.cit., Pp.766-768.



notwithstanding their willingness to revise some features of the policy of economic liberalization, like Borugouiba's revocation of prior price increases in 1984, and Hosni Mubarak's slowing down of the pace of economic liberalization in Egypt in 1980s.

In essence, therefore, the Arab state emerged irresponsive to people demands & pressure exerted by society. This left its legitimacy as appropriate ruler of society very much questionable. To defend itself, Arab state tended to enforce its security laws with a heavy hand. The security forces, in particular the intelligence (*Mukhbarat*), carried out a strict watch over intellectuals, professional associations, trade unions, the press and so forth. This trend was patently clear in countries like Egypt, Iraq, Syria, Algeria, Tunisia (all of which experienced single-party rule in 1950s-1970) in the 1980s.<sup>62</sup> Interestingly enough, while the state in these countries relied mainly upon force to keep its immunity from public pressure, the state in the Gulf Countries and Saudia Arabia relied (as we have seen above) mainly upon the petrodollar, and to a lesser extent, force, to assert its immunity. In both cases, the state emerged unresponsive to the input or interests of various social groups when articulating public policy, and consequently left the majority of the population unable, or too weak, to influence its policies or to have access to political power.

The reluctance of Arab states to permit wide scale political participation, coupled with the lack of social justice, were the main factors which enabled Islamic fundamentalist movements to assume wide constituencies in the Arab world from 1980s onward. These movements started to appear on the scene since 1967 in response to the defeat of the Arab world in 1967's war, and the resultant collapse of the Pan-Arabism scheme. Nonetheless, these movements remained unable to assume wide support, and hence, to play influential role in the Arab politics.<sup>63</sup>

The failure of the Arab state to promote social justice and democracy in 1970s, coupled with the success of Ayatollah Ali Khomeini in seizing power and establishing Islamic state in Iran in 1979, were the factors which enabled these movements, with

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<sup>62</sup> Korany, Noble, & Brynen (eds.), op.cit., Pp.270-273.

<sup>63</sup> William L. Cleveland. *A History of the Modern Middle East*. U.S.: Westview Press, 2ed edition, 2000, Pp.410-430.

their call for social equity, to claim wide constituencies in the Arab world, and thus, to emerge as an influential variable in Arab politics. In the late 1970s, and during the 1980s, most of the Arab countries would witness the rise of Islamic associations. These associations, which peacefully protested the Westernization of the Arab world, enjoyed footholds in universities, professional associations, charitable organizations, and so forth. Alongside them were the Islamic underground organizations set up around the same period.

These underground organizations pursued a radical policy as they called for the violent overthrow of the Arab rulers as means to establish an Islamic state. Inspired by Sayed Quttub, the member of Muslim Brotherhood who was executed by Nasser regime of Egypt in 1966, most of these organizations believe, as Quttub did, that the proper function of the government is to enforce the Islamic legal codes.<sup>64</sup> These movements, therefore, touched very fundamental issues relating to the role of the Arab state as an appropriate ruler of society. In this sense, they constituted a serious challenge to the Arab rulers. To deal with these movements, Arab rulers pursued policies that ranged between co-optation and to oppression. In the 1970s, President Sadat of Egypt enabled these movements to enjoy some sort of freedoms and released hundreds of them. But quickly he abandoned his liberal policy when he became aware of their growing power since the late 1970s onward. He arrested hundreds of them in 1981. Hafez Al Asad adopted the same oppressive policy when he oppressed the disturbances of Hama in 1982 at a cost of around 10,000 casualties among the Muslim Brotherhood's members. The same line was followed in Kuwait when the government launched large-scale wave of arrest against them in 1985.<sup>65</sup>

In response to these measures, the military wing of these of Islamic movements assassinated Sadat in 1981, and made an unsuccessful coup attempt against Numeiri regime in Sudan in 1985. Thereafter, the Egyptian President Hosni Mubarak refused to allow their party to be represented in various state organs (e.g., parliament), and pursued an iron-fisted policy toward their military wing. The same trend can be noticed in Sudan and Jordan in 1980s and 1990s.

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<sup>64</sup> Ibid., Pp.430-435.

<sup>65</sup> Korany, Noble, & Brynen (eds.,) op.cit., Pp.284-285.

In Tunisia and Syria, the iron-fisted policy was pursued in respect of both wings. Both regimes refused to permit the political wing of these movements to run in elections. Leaders of the Tunisian major Islamic organization (*the Mouvement de la Tendance Islamique*) thus, had to suffer the detention or deportation before their movement was formally dissolved in 1990s. The same thing can be said about the Syrian Islamic Movement, of which most leaders were either detained or exiled by the regime.<sup>66</sup>

The Arab state policy toward Islamic movements might reveal the overall policy of this state toward society in 1980s and 1990s. Continuously, the Arab state seeks to assert its rule and to enhance its legitimacy. Toward this end, it tends to undermine the emergence of any real opposition. Political parties in this context either are denied access to real political power (Tunisia and Syria's policy toward Islamic movements) or are used as an instrument in the hands of state to enhance its legitimacy (Sudan and Egypt's policy toward the same movements). In the meanwhile, the Arab state tends to assume hegemony over civil society (e.g., professional associations) and undermines basic human rights (e.g., right to freedom of expression). In so doing, the Arab state is backed by the security forces, in particular the intelligence. The Arab state, Ayubi notes, "is a fierce state that has frequently to resort to raw coercion in order to preserve itself..."<sup>67</sup>

While Arab state does so, it failed to achieve economic development, and hence, left the majority of its citizens economically deprived. Access to wealth in the Arab world is associated with access to the levers of state power. Given the fact that access to levers of state power is confined only to special social stratum (e.g., Hashemite family and their supporters in Jordan, Saud clan and their supporters in Saudia Arabia, the Ba'ath supporters in Syria), the Arab state emerged as instrument in the hands of specific social groups to achieve economic gains.

### ***Rethinking the Arab State***

By means of this discussion it becomes clear that the current Arab state is the most enduring legacy of the colonial era. But this is not to say that all Arab states were a

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<sup>66</sup> Owen op.cit., Pp.178-188.

<sup>67</sup> Ayubi. *Over-Stating*, op.cit., P.3

direct result of colonial imposition. Some of these states were a direct imposition (Lebanon, Syria, Jordan, and Iraq), while others were an indirect result of capitalist penetration (Egypt, North African countries, Gulf States and Saudi Arabia). But no doubt all of them came into being within the context of integrating the Arab world into the international capitalist system, and thus were born as tributaries.

The fact that the Arab state is connected with the colonial era left a negative impression of the relationship of this state with its people. The concept of centralization of political power is a new phenomenon, which was experienced only, as has been shown, during the colonial era. Thus, the state in terms of a central authority that monopolizes the right of issuing binding rules over a territorially defined population is not accepted without question, as it brings back memories of colonial administration. Accordingly, the legitimacy of the Arab state as the appropriate framework for solving the crucial issues of society is questionable.<sup>68</sup>

In addition, Arabs still conceive of themselves as one nation with the same history, language, culture, and ethnic background. This perception found its political expression very early on with the attempt of Sharif Hussein during the First World War to separate from the Ottoman Empire and to establish an independent Arab state. But with the ratification of the mandate system by the League of Nations in July 1922, the Pan-Arab project had receded and each Arabic country, from that year onward, would face its fate alone.

However, the idea of Arab unity had not disappeared, and once again it found its institutional expression with the establishment of the League of Arab states in 1945, and found its unprecedented political expression with the rise of Jamal Abd El Nasser to power in Egypt in 1953 and the following Egyptian-Syrian unity in the period of 1958-1961. But the Israeli-Arab war in 1967 and the defeat of Nasser's regime in that war weakened the Arab unity project and raised, instead, regionalism. With the Iraqi invasion of Kuwait in August 1990, the Arab unity project totally collapsed and regionalism strongly prevailed. Despite this check, the appeal to Arab unity has not been stilled; on the contrary, until the present time it has many supporters.

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<sup>68</sup> Migdal. *Strong Societies*, op.cit., Pp.36-37.

Arab unity ideology, or Pan-Arabism, is not the only super-state ideology that marks the Arab world. Alongside this ideology is Islam. The majority of Arabs are Muslims. The call for an Islamic state that governs according to Islamic codes is another basic feature of Arab politics. This appeal emerged after the 1967 defeat, a defeat that was to be understood in terms of Pan-Arabism ideological failure to face the historical challenges encountered by Arabs. In the 1970s, the appeal gained strong momentum due to the failure of the Arab state to realize social justice, and the success of the Islamic Revolution in Iran in 1979. The historical origin of this appeal is to be found in the Muslim Brotherhood movement that emerged in 1928. Starting in Egypt, this movement moved across different Arab countries, and formed a serious threat to the secular state in the Arab world.

For example, the origin of the Palestinian Islamic movement *Hamas*, which forms the most serious challenge to the Palestinian Authority's (PA) rule, is to be found in this earlier movement. By adopting Islam as the ideological framework for governing the relationship between people and the political authority, this movement offers a challenging alternative to the secular framework of the nation-state. Simon Bromley asserted that the ideologies of Islam and nationality are by definition exclusive: it is not possible for them to coexist.<sup>69</sup> While the concept of nationality implies loyalty to a territorially defined population, Islam overlaps territories and asserts ideological and religious linkage at the expense of the political and legal linkage of nationality.

The tribal social formation which dominated the Arab world offers another challenge to the nation state. As mentioned elsewhere, this formation does not imply the traditional Marxist correspondence between the economic mode of production and the ideological superstructure. Thus, and despite the retreat of the tribe as a form of social production, tribal culture remained another basic aspect of Arab politics. In contrast to the nation-state, which stresses loyalty to a territorially defined population and asserts formal and impersonal criteria as bases for status, the tribe gives primacy to kinship

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<sup>69</sup> Bromley op.cit., Pp.90-94.

criteria, stresses loyalty to a narrow community that shares the same blood lineage, and asserts informal /personal criteria as bases for status.<sup>70</sup>

Thus, the homogeneous population, with the exception of Egypt, as a pre-condition for the nation state is absent from the Arab world. Not only this, but also the economic foundation necessary for the nation state is absent. Reinhard Bendix asserted the development of capitalist relationships as a pre-condition for the nation state. According to Bendix, the emergence of capitalist society with its focus on formal contractual relationships is the factor which allowed the individual to conceive of his liberty in terms of being part of a wider political community, and thus appearing as a self-standing entity in legal and political relationship with the political authority.<sup>71</sup>

As regards the Arab world, we have noted how the colonial powers circumscribed the bourgeoisie in the agricultural sector. This bourgeoisie was denied any access to industrialization (except for some isolated social groups that invested in sectors derived from agricultural commercialization: finance, communication, commerce, and so on). After independence a specific model of industrialization emerged: “import-substitution model”. Within the context of this model, the Arab state assumed the role of the bourgeoisie, and pursued industrialization through a dependence on foreign aid and capital (Egypt, Syria, Iraq, Algeria, and Tunisia, in 1950s-1970 are good examples).

In so doing, the Arab state led the bourgeoisie and emerged as a capitalist state. Nevertheless, the Arab state emerged as a capitalist state not in the Marxist sense which is based on social stratification; rather, in the sense of “state-led industrial projects.” To put it in different terms, the Arab state tended to assume hegemony over the economy. Though the period of the 1970s and 1980s witnessed a general trend in the whole Arab world toward economic liberalization, the bourgeois class which emerged was self-interested but was very much connected to state. This was so much so that it hindered the development of an independent and strong bourgeois class, and

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<sup>70</sup> For excellent assessment over tribal and other informal groups politics see James A. Bill & Carl Leiden. *The Middle East: Politics and Power*. Boston, London, Sydney, & Toronto: Allyn & Bacon, Inc., 1974, Pp.58-92.

<sup>71</sup> Bendix op.cit., Pp.66-126

hence, impeded the development of inter-state capitalist relationships in the Arab world.

The above-mentioned conditions (Pan-Arabism, Islam, tribal culture, weak capitalist relationships) created a situation in which the individual has a multitude of loyalties. On the one hand, he belongs to a specific tribe, and on the other he belongs to the Arab nation and Muslim community, and maybe to a given class. Thus, the individual came to be defined always in reference to a wider community. As a result, the concept of “individualism”, in the sense of the individual as separate entity in his own right, had not emerged. This led to a situation where the state as an outcome of “Locke’s social contract” is unknown, and thus liberty as a legal and contractual right of an individual is also unknown.<sup>72</sup>

At another level this multitude of loyalties of the individual made it difficult for an Arab state to morally penetrate the identity of its people and to restructure it according to new premises. The Arab state finds huge difficulties in getting its people to obey its rules and in absorbing and mobilizing them within a state-based moral framework. This normative foundation of state power or what Michael Mann calls the “infrastructural power” is lacking in the Arab world.<sup>73</sup> The state is lacking the capability of securing the loyalty of individual citizens over their pre-existing forms of tribal or super-state-ideological loyalties.

This situation created the potential of what Theda Skocpol, relying on Charles Tilly’s conception of revolution in his *Mobilization to Revolution*, calls the “Multiple Sovereignty”,<sup>74</sup> where the state encounters forces that claim the moral right to rule the society (the Islamic fundamentalist movements for instance). Thus, political conflict in the Arab world came to revolve not around the content of specific policies, whether social or economic, as in the case of Europe, but around fundamental issues related to the very essence of the state as appropriate ruler of society.

As a result of this situation, the Arab state appears in continuous attempts to assert its

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<sup>72</sup> Peter Laslett (ed.), *Locke: Two Treaties of Government*. Cambridge: Cambridge University Press, 1988.

<sup>73</sup> Mann op.cit., Pp.5-30.

<sup>74</sup> Skocpol op.cit., Pp.10-11.

rule and to enhance its legitimacy. Thereby, it tends to undermine the emergence of any real opposition. Political parties in this context either are denied access to real political power or are used as an instrument in the hands of the state to enhance its legitimacy. This implies that political parties in terms of vehicles for public participation are either weak or absent from the Arab world. This is understandable, given the weak and dependent Arab bourgeoisie. This character of the Arab bourgeoisie denies it the ability to organize itself on the grounds of well-defined economic and social demands that can be channeled to state institutions, and thus politically expressed by a given state policy.

The state's attempts to enhance its legitimacy touch the administrative system. It is the administrative system which is used as a mechanism for mobilizing people and enhancing the state's legitimacy. By such action the state politicized the administration and thus undermined the traditional democratic separation between politics and administration which implies an implementation role for the state's bureaucracy. This separation is not well developed in the Arab world. The politicization of administration was achieved through the state's diffusion of networks of patronage-client relationships.

Even the building of military administration takes place within the context of a state's attempts to enhance its legitimacy. The state tends to be highly selective in recruiting military personnel. Usually, they are drawn from specific tribes, sects, and loyalists to the President (Egypt, Syria, and Iraq). In some other cases, such as the Gulf countries and Saudi Arabia, the military is placed under direct supervision of the ruling family's members. In some extreme cases, such as Jordan, the military is placed under direct supervision of the King, who assumes the role of commander-in-chief.<sup>75</sup>

To conclude as to the Arab state, it seems that this type of statehood tends to assume complete hegemony over society by assuming the role of patron with regard to the economy and by politicizing the bureaucracy as well as the military. Furthermore, it seems that this state tends also to assume ideological hegemony by co-opting civil society and absorbing it within state ideology. Though this helps it to assume

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<sup>75</sup> Owen op.cit., Pp.197-213.



autonomy from popular will, it simultaneously brings its legitimacy into doubt in terms of its capacity to gain the voluntary compliance of its people. Accordingly, terror and violence emerge as a prominent aspect of the Arab state's relation to its society.

These are the main features of the Arab state that was born within the context of the colonial hegemony in the region. Now the question which might arise, as far as Palestine is concerned: did Palestinians undergo a different historical experience from that of Arabs, and if they did, what are the main characteristics of this experience and how will this contribute to the current process of state building?

Unlike most of the Arab countries, Palestinians were confronted from the very beginning by the ambition of another people (the Jews) who sought to uproot them from their land and to establish their own state. By the Palestinians' unfortunate lot, the mandate writ backed such ambition when it included the Balfour declaration (which stipulated a British support for a Jewish national home in Palestine- as we will see later) in its preamble and thus granted such ambition international sanction. This grant blocked all Palestinian attempts to enjoy any access to state institutions, in particular the national level institutions (e.g., parliament). Despite this, Palestinians were permitted to take part in the local level institutions (municipal and rural councils) under the Mandate.

In tracing the historical development of Palestinian state building, therefore, I will highlight the development of the Palestinian access to the national and local level institutions of state functions under various foreign powers that ruled Palestinians since the nineteenth century up to 1993, when the Oslo treaty was signed and enabled Palestinians, for the first time in their history, to enjoy their own Para-state institutions (Cabinet, parliament, Bureaucratic system-“national level institutions of state functions”). Mainly, I will focus on the Ottoman, British, Jordanian, Egyptian, and Israeli era. My aim is to find out how these initial conditions were translated into the Para-state institutions provided by the Oslo process.

## Chapter II: The Palestinian Autonomy

### Historical Overview

Among other things, the system of local autonomy seeks to encourage public participation in the “provision and administration of governmental services”, and hence to motivate and advance political leadership.<sup>76</sup> Rural and municipal councils, which form the main building blocks of this system, are devised to achieve two goals: public participation in the provision of governmental services, and the recruitment of political leadership. Accordingly, these councils constitute important and politically powerful government institutions; as such, they are also accompanied by key national government bodies like parliament and cabinet.

In this sense it was not before the second half of the 19<sup>th</sup> century that the first signs of Palestinian access to national & local state institutions (via parliament and rural & municipal councils, respectively) occurred. At this time Palestine was controlled by the Ottomans, a population that experienced significant challenges to its rule during the first half of 19<sup>th</sup> century. The most important of these challenges was the rebellion of the *Wali* of Egypt and Mohammad Ali against the Porte, and Mohammad Ali's occupation of Palestine and Syria for about one decade (1831-1840).<sup>77</sup> This occupation greatly alarmed the Ottomans, who were, from then onwards, deeply concerned about the potential emergence of a centre of political activities or opposition to their rule.

Consequently, once Ali's regime was overthrown with British help and Ottoman rule restored in Palestine and Syria, the Ottomans adopted a set of reform measures (*tanzimat*) in a bid to tighten their control over the imperial territories.<sup>78</sup> The reform measures included comprehensive institutional arrangements aimed at structural adjustments in the financial, military, judicial, administrative, educational and

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<sup>76</sup> Daniel Elazar & Chaim Kalchheim (eds.). *Local Government in Israel*. Lanham, New York, and London: University Press of America, 1988, P.3.

<sup>77</sup> Donna Robinson Divine. *Politics and Society in Ottoman Palestine: The Arab Struggle for Survival and Power*. London, 1994, Pp55-62.

<sup>78</sup> For a discussion of the Ottoman reform see Moshe Ma'oz. *Ottoman Reform in Syria and Palestine 1840-1861: the impact of the Tanzimat on Politics and Society*. Oxford: Clarendon Press, 1968.

economic sectors. It also included measures and regulations aimed at redefining the concept of “citizenship” in accordance with a Western perspective.

Of primary concern to our interests is the measure enacted in the 1850s, which set up Administrative Councils (*Majlis adara*) at the provincial level. These councils, which enjoyed financial, administrative, and judicial authorities, were set up to counter the *Wali* power and to serve as the institutional foundation for social mobilization and political participation. Three Muslims alongside a proportionate number of the non-Muslims were elected to the council. Another three Muslims (among the religious functionaries) were appointed. The nomination for these councils was open to any one who was older than 30 and paid more than 15 piaster in annual taxation.<sup>79</sup>

Due to these provisions, most of those who gained access to these councils were from rich Palestinian families — the *ayan* (urban notables), according to Albert Hourani’s terminology.<sup>80</sup> The middle and lower classes of society were therefore underrepresented and non-Muslim deputies were marginalized. In the 1850s, the British Consul James Finn confirmed the situation when he noted: “it should be mentioned that a close corporation of Arab families, not recognized by law, but influential by position, usurped all municipal offices among them”.<sup>81</sup>

The most prominent of these families were El Husayni, El Nashashibi, Al Alami, and El Dajani. In the pre-reform period these families occupied important religious posts such as *Mufti* (official expounder of Muslim law), *Shari’a* court jurist, *Naqib Al ashraf* (steward of the descendants of the Prophet), and *Sheikh El Harm* (guardian of Al Aqsa Mosque and the Dome of the Rock), and consequently had enhanced status.<sup>82</sup>

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<sup>79</sup> Alfred Bonne’. *State and Economics in the Middle East: A Society in Transition*. London: Routledge & Kegan Paul Ltd, 1955, Pp.41-42.

<sup>80</sup> For Hourani’s discussion of the *ayan* see chapter. “Ottoman Reform and the Politics of Notables”. In William R. Polk and Richard L. Chambers (eds.). *Beginnings of Modernization in the Middle East: The Nineteenth Century*. Chicago: The University of Chicago Press, 1968.

<sup>81</sup> Quoted in Y. Porath. *The Emergence of the Palestinian-Arab National Movement: 1918-1929*. London: Frank Cass, 1974, P.14.

<sup>82</sup> Mordechai Abir. “Local Leadership and Early Reforms in Palestine: 1800-1834.” In Moshe Ma’oz (ed.) *Studies on Palestine During The Ottoman Period*. Jerusalem: The Magnes Press, 1975, P.292. See also Butrus Abu-Manneh. “The Husaynis: The rise of a Notable Family in 18<sup>th</sup> century Palestine”. In David Kushner (ed.). *Palestine in the Late Ottoman Period: Political, Social and Economic Transformation*. Jerusalem: Yad Izhak Ben-Zvi Press, 1986, Pp.94-95.

With the introduction of the provincial councils, members of these same families were elected or appointed to them as well. Gradually, these prominent families succeeded to dominate the councils at the expense of both the non-Muslim deputies and the village *Sheikhs*, who themselves enjoyed the right of *iltizam* (Tax-farming) in the pre-reform period. According to the *Musha* system, this right enabled the village *Sheikhs* to collect taxes from the peasants who cultivated their land.<sup>83</sup> When the provincial councils were formed, however, they were empowered to decide on the distribution of *iltizam* and the *ayan*, used their status and membership in the councils to transfer the right from the village *Sheikhs* to themselves.<sup>84</sup>

This shift was very much connected to other developments sparked by the land reform law of 1858. The law sought to strengthen state control over *miri* land (state land) and thus called peasants to register their land and pay tax on it in cash.<sup>85</sup> Instead of strengthening the state's control over *miri* land, however, the law enabled the *ayan* to consolidate and control large estates of land. The *ayan* were in part able to do this by taking advantage of the peasants' illiteracy and their fears that they would be conscripted into the Ottoman army if their real names appeared in Ottoman authorities' files. Due to this fear of conscription, most of peasants refrained from registering their land in their real names; instead they registered it in the names of the *ayan* who had access to the authorities in an attempt to exempt themselves from appearing in these files. In addition, the demand to pay the land tax in cash forced many peasants to register their land in the names of money-lenders (connected to the *ayan*) to whom they failed to repay debts (the natural result of extortionate interest rates).

These rates, estimated by one scholar at 10-50%,<sup>86</sup> forced some peasants to eventually yield their land to money-lenders in exchange for having their debts written off. The

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<sup>83</sup> According to this system, Ottomans monopolized the ultimate right to land title, which empowered peasants with the right to land tillage in exchange for paying the land's taxes on tith and on community bases. For a detailed discussion over the *Musha* system, see chapter IX (Pp.213-248) in A. Granott. *The Land System in Palestine: History and Structure*. London: Eyre & Spottiswoode, 1952.

<sup>84</sup> Joel S.Migdal. "The Two Faces of the Ottoman Rule: Palestinian Society before World War I". In Joel Migdal (ed.). *Palestinian Society and Politics*. Princeton/ New Jersey: Princeton University Press, 1980, Pp.9-17.

<sup>85</sup> Robert H. Eisenman. *Islamic Law in Palestine and Israel*. Leiden: E.J.Brill, 1978, Pp.52-62.

<sup>86</sup> Muhammad Y. Muslih. *The Origin of Palestinian Nationalism*. New York: Columbia University Press, 1988, P.25.

overall outcome of the situation was that large stretches of land were consolidated under the control of a few *ayan*, and status of peasants shifted from that of a land owner to that of either a tenant or agricultural laborer on an *ayan*'s estate.

In 1864 the Ottomans became aware of the negative ramifications of their *tanizmat* in respect to local government. Accordingly, the *Vilayet* law was introduced to promote local government at village and town levels. The law, enacted in 1867, introduced a system of *Nahiyas* (rural districts) at the village and town levels. Each *Nahiya* was said to be under the control of a *Mudir*, who functioned as the chair of his local council. However, few councils were actually established, and the position of *Mukhtar* (Chief of the Village) introduced by the same law generally assumed the functions intended for the rural councils.<sup>87</sup>

The *Vilayet* law also elected a municipal council for Jerusalem, and in 1876 the Ottomans enacted a second law that granted 22 towns and large villages municipal status.<sup>88</sup> Yet while the municipal councils of these towns were said to be elected, the voting qualifications were unfairly demanding, and only those aged 25 and older, who paid more than 25 piaster in annual tax on property or income, were eligible to vote.<sup>89</sup>

In light of this narrow electoral base, the *ayan* control of most Palestinian land, and the fact that the Ottoman authorities retained the right to appoint mayors, it comes as no surprise that the *ayan* again dominated these councils. The first mayor of Jerusalem belonged to the El Husayni family (Salim El Husayni), and was succeeded by Faidy Al-Alami and Musa Kazim El Husayni.<sup>90</sup> Moreover, the *ayan* were the only social stratum which had access to the Parliament provided by the 1876 constitution. In 1911 both Sa'id El-Husayni and Ruhi Al Khalidi were elected to Ottoman Parliament as representatives of the Jerusalem constituency.<sup>91</sup>

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<sup>87</sup> Baruch Kimmerling and Joel S. Migdal. *Palestinians: The Making of a People*. Cambridge/Massachusetts: Harvard University Press, 1994, Pp18-19.

<sup>88</sup> Elazar & Kalchheim (ed.). *Local Government*, op.cit., p.12

<sup>89</sup> Bonne', op.cit., P.43.

<sup>90</sup> Porath, op.cit., Pp.13-14.

<sup>91</sup> Rashid Ismail Khalidi. *British Policy towards Syria & Palestine 1906-1914: A Study of the antecedents of the Hussein-the McMahon correspondence, the Sykes-Picot Agreement, and the Balfour declaration*. London: Ithaca Press, 1980, P.227.

This state of affairs, in which only the *ayan* and *Mukhtars* had access to national & local level political institutions (parliament, and municipal and rural councils, respectively) continued until the First World War, a conflict which instigated two developments that vitally impacted the ability of Palestinians to access their political institutions. The first development was the collapse of the Ottoman Empire, and the consequent termination of its rule over Palestine. The second unfolded as the capture of Palestine by British forces in December 1917 coupled with the new Zionist venture in Palestine. Through these two developments, Palestinians were still denied access to national state institutions, but were permitted to participate in local government bodies.

### ***Palestinian Autonomy under British Mandate***

In December 1917, British forces captured Palestine, and set up a military administration for approximately four years, before introducing a civil administration in 1922 to implement the resolutions of the 1920 San-Rimo peace conference. This conference placed Palestine under the British mandate; yet, unlike mandate systems instituted in the rest of the Arab world, the mandate in Palestine — which was formally recognized by the League of Nations on 24 July 1922 — incorporated the Belfour declaration and singled out Palestine to become the site of a new Jewish national home.<sup>92</sup>

Due to this specific decision, the mandatory government was legally obliged to place “...the country under such political, administrative, and economic conditions as well secure the establishment of the Jewish National Home” and to “facilitate Jewish immigration” to Palestine (article 2 & 6 of the League of Nations mandate over Palestine provided). The writ of the mandate went further and enabled Jews to have their own representative body (the Jewish Agency) “...for the purpose of advising and co-operating with the administration of Palestine in such economic, social and other matters as may effect the establishment of the Jewish National Home and the Interests

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<sup>92</sup> In November 1917, then British Foreign Secretary Arthur James Belfour declared to Haim Weizman, head of the Jewish Agency, that “His Majesty’s Government view with favour the establishment in Palestine of a national home for Jewish people, and will use their best endeavours to facilitate the achievement of this object,....” see Palestine Government. *Report of the High Commissioner on the Administration of Palestine 1920-1925*. 1925, Pp.24-25

of the Jewish population in Palestine...” (Art. 4). These particulars are extremely important to consider when addressing the political motivations and concerns which guided the mandatory government in drafting legislation related to Palestinian autonomy.

From the very beginning it was clear that the mandatory government’s policy toward Palestinian autonomy and Palestinian access to any level of state power would be restrained by the provisions of the Mandate (including the Belfour declaration). In light of these restrictions, the mandatory government was going to implement the provisions of article (3) providing for a Palestinian autonomy.<sup>93</sup> The first move made to promote some form of Palestinian autonomy occurred in December 1921, when the mandatory government issued an order providing for the establishment of a Supreme-Muslim Council (SMC) for the control and management of *Shari’a* affairs and Muslim *Awqaf* (land which is considered to be collectively owned by all Muslims — for example, the Dome on the Rock or the Al Aqsa Mosque complex). The SMC was empowered with the right to nominate, for the approval of the mandatory government, various religious functionaries, and was intended to administer the *Waqf* fund. Through the creation of the SMC, the mandatory government franchised Palestinians right to exercise religious authority. Amin El Husayni, a young member of El Husayni family and new *Mufti* of Jerusalem, was appointed head of the council.<sup>94</sup>

Alongside the SMC, the mandatory government left Palestinians enjoying their own political institutions. In this regard, it tolerated, and possibly supported, the Muslim-Christian Association (MCA) founded in 1918 as an institutional expression of the Palestinian opposition for the Belfour declaration and Jewish immigration to Palestine.<sup>95</sup> Later, it tolerated the Arab Executive (AE), which evolved from the MCA in 1920 and was chaired by Musa Kazim El Husayni. Though it did not recognize it as *de-jure* representative of Palestinians, the mandatory government dealt with the AE as a *de-facto* representative of all Palestinians during 1920s.

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<sup>93</sup> The full text of the writ of the League of Nations Mandate over Palestine is cited in Charles D. Smith. *Palestine and the Arab-Israel Conflict: A History with Documents*. Boston/New York: Bedford/st.Martin’s, 2001, Pp.106-108.

<sup>94</sup> See *Palestine Royal Commission Report (Peel commission)*. July 1937, Pp.174-181.

<sup>95</sup> Porath, op.cit., Pp. 32-39.

From the mandatory government's point of view, these institutions were necessary because they provided Palestinians a voice and created a channel of communication between itself and the Palestinian population. In this sense, the mandatory government sought to appease Palestinians and to keep a balance of power between the two populations (Palestinians and Jews, the latter of which already had a representative body: 'the Jewish Agency'). From the mandatory government's point of view this gesture was expected to pave the way for including Palestinians in formal state institutions, and thus to implement the mandate policy. But was this analysis correct?

The mandatory government failed in its estimate of the Palestinians' principle opposition to the mandate terms stipulating a Jewish national home be created in the country. This opposition supported the criticisms launched by the SMC and the AE against the seven Palestinians (four Muslims and three Christian) who joined three Jewish and ten British officials in the advisory council set up by the Higher Commissioner to pass legislations regarding issues of concern for Muslims, Christians and Jews in October 1920.<sup>96</sup> This wave of criticism promoted the resignation of the above-mentioned Palestinians from the council, and consequently forced the mandatory government to declare on 10 August 1922 its ordinance "Palestine Order-in-Council".<sup>97</sup> The new ordinance, which provided for a legislative assembly comprised of twenty-two members in addition to a non-elected higher commissioner, constituted a further attempt to contain the traditional elite represented by the AE, and to enable Palestinians to take part in national level government institutions. But the proposed power and structure of this legislative body failed to secure the necessary moral approval from the AE, which remained dissatisfied with the process.

Firstly, the constitution enabled the higher commissioner to veto any legislation that "concerns matters dealt specifically by the provision of the Mandate" (Art. 26 of the 1922's constitution). Furthermore, the structure of the legislative assembly in fact problematised Palestinian decision-making processes regarding important issues like Jewish immigration. Out of the twenty-two elected members of this body, ten members were said to be British officials, and twelve were elected (Art. 19).

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<sup>96</sup> Palestine Government. *Report of the High Commission*, op.cit., P.44.

<sup>97</sup> See "The Palestine Order in Council". 10 August 1922. Online  
<<http://domino.un.org/UNISPAL.NSF/0/c7aae196f41aa055052565f50054e656?OpenD...>>



According to Sir Herbert Samuel, the British Higher Commissioner to Palestine in the period of 1920-1925, out of the twelve elected seats of the legislative body, eight were assigned to Muslims, two to Christians and two others to Jews. This distribution, according to Sir Samuel, went against the wishes of the AE, which demanded an overwhelming majority of Palestinians in the council. When the mandatory government rejected the AE's demand, Palestinians announced a boycott of the elections proposed for the following year. The High Commissioner then suspended the proposed legislative body, and continued to exercise legislative powers himself, in consultation with the advisory council.<sup>98</sup>

The developments concerning 1922's constitution might reveal the main issue of conflict between Palestinians and the mandatory government, as far as Palestinian participation in the administration of public affairs was concerned. While the mandatory government was, in principle, prepared and desired to give Palestinians the opportunity to share state authority, it was not willing to permit them any state authority in ways potentially inconsistent with the provisions of the mandate.

On the other hand, Palestinians were also aspiring to attain complete national government responsibility through a national legislative assembly that would claim all rights to decide on issues related to the country, including that of it becoming a Jewish National homeland.<sup>99</sup> This position made Palestinian participation in the administration of the country, according to the terms of the mandate, impossible. Though a similar attempt was made to enable Palestinians to participate in the administration of public affairs, it too failed for the same reasons.<sup>100</sup> The inability of the mandatory government to convince Palestinians to take part in national level state institutions was further problematised by the government's inability to promote effective Palestinian local autonomy.

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<sup>98</sup> Palestine Government. *Report of the High Commissioner*, op.cit., Pp.44-47.

<sup>99</sup> William B.Quandt, Fuad Jabbar, and Ann Mosely Lesch. *The Politics of Palestinian Nationalism*. Berkeley & Los Angeles: University of California Press, 1973, Pp.14-29.

<sup>100</sup> In 1923, for example, the Mandatory government proposed an Arab Agency to assume functions similar to those entrusted to the Jewish Agency by Article 4 of the Mandate. See *Palestine Government's Annual Report to the League of Nations* (31 December 1930). Online <<http://domino.un.org/UNISPAL.NSF/a47250072a3dd7950525672400783bde/c2feff7b...>>

We have seen that under the Ottoman regime the rural population were denied power to control their own affairs, and the *Mukhtars* managed to assume the rural councils' functions. In 1921, the mandatory government sought to revise this situation when it promulgated the "Local Council Ordinance," providing for the creation of local councils at both village and town levels. These councils were given the rights to impose and collect fees, taxes and other charges. Also they were empowered with the right to issue by-laws for securing good order in the village. However, the autonomy of these councils was very limited. It was the British district commissioner who enjoyed the rights to approve rates of tax, levy rates, the councils' annual expenditure and revenue, as well as the councils' by-laws. According to this restricted legal base for rural autonomy, by 1924 the mandatory government enabled twenty-seven rural areas, four of which were Jewish, to have rural councils.<sup>101</sup>

As far as the Palestinian local councils were concerned, and in the Peel Commission's<sup>102</sup> point of view, two factors kept these councils from functioning as effective tools of wide political participation. The first factor was the sweeping power conferred to the British commissioner, and the second was the social and cultural setting of the rural areas.<sup>103</sup> In various occasions, the former factor left the future of these councils hostage to the political winds of the country. In 1930, for instance, following the Western Wall events,<sup>104</sup> the higher commissioner abolished the rural councils in six Palestinian Villages.<sup>105</sup> The latter factor (the matter of social and cultural setting) was the most serious since it dealt with issues that needed much time

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<sup>101</sup> See *Appendix I of Palestine Government's Annual Report to the League of Nations (31 December 1924)*. Online

<<http://domino.un.org/unispal.nsf/0/a87d21f4e57f2d0f052565e8004bace0?OpenDocu...>>

<sup>102</sup> In November 1936, a Royal commission of inquiry known as the Peel Commission arrived in Palestine to investigate the reasons for the so called "the 1936's revolution". The revolution, initiated by a six month long strike, lasted for about three years (from 1936 to 1939) before it was crushed by the mandatory government. Up to 1939 year it constituted the most wide-scale Palestinian uprising against Jewish immigration and land confiscation. For the most recent assessment of this revolution, see Kimmerling and Migdal, op.cit., Pp.96-156.

<sup>103</sup> See *Palestine Royal Commission Report (Peel Commission)*. July 1937, P.347.

<sup>104</sup> These events broke out in connection with mutual Arab and Jewish religious claims to the "Western Wall" (or *Al Buraq* Wall, as Muslims prefer to call it). The events left hundreds dead on both sides, and other hundreds injured. For a detailed account of these events see Tom Segev. *One Palestine, Complete: Jews and Arabs under the British Mandate*. London: Clays Ltd., 2000, Pp.295-327.

<sup>105</sup> *Excerpts of Palestine Government's Annual Report to the League of Nations (31 December 1930)*. Online <<http://domino.un.org/UNISPAL.NSF/a47250072a3dd7950525672400783bde/c2feff7b...>>

to be remedied. One main feature of this cultural setting was its emphasis on community affiliation at the expense of any other form of modern affiliation (for example, national affiliation). Provided for by this cultural setting, the decision-making process was thus guided by factors other than rational choices.<sup>106</sup>

This means that there was an absence of any normative foundation to support efficient systems of local government at the village level. The problem was aggravated by the failure of the mandate to significantly promote education as an instrument of building such a normative foundation. In 1932, the school age population in Palestine was estimated at 215,000. Of this, only 25,000 had access to schools.<sup>107</sup> In such circumstance, it would not be difficult for the traditional power-oriented or patriarchal culture to penetrate these councils and to stamp them with its traditional concept of authority, a concept which assigned a mediating role to the leader that placed him between the public and superior powers. The role of these councils, consequently, became to mediate between villagers and the mandatory government.

Due to its failure to promote an efficient system of local government in rural areas, the mandatory government abolished the 1921 ordinance, and enacted a new one (ordinance no. 36) in 1941. This new ordinance reasserted the powers of rural councils originally provided by the 1921 ordinance, and added additional powers including the right to issue by-laws in domains like health and internal administration (for example, regarding roads development) as well as in some municipal domains (to do with the supply of electricity and water, for instance). Rural councils also gained the right to impose a fine on villagers who breached the council's by-laws. This fine was set at five pounds, and was said to increase by one pound per each day during which the breach continued.<sup>108</sup>

In 1945, the mandatory government went further and promulgated its Ordinance No. 29 concerning local councils (Local Authorities "Business Tax" Ordinance). The Ordinance, which also covered the municipal councils, empowered rural councils with

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<sup>106</sup> This point is discussed by Ylana N. Miller. "Administrative Policy in Rural Palestine: The Impact of British Norms on Arab Community Life, 1920-1948." In Migdal (ed.). *Palestinian Society*, op.cit., Pp.130-134

<sup>107</sup> Porath, op.cit., P.21.

<sup>108</sup> See Articles 5 (1,2) & 9 (1,2) of the "Local Council Ordinance No.36 of 1941". In A.S. Kandel. *Local Government in Palestine*. Jerusalem: Hamadpis Liphshitz, 1947, Pp.158-167.

the right to levy tax on all persons carrying out business and trade activities within the council's territory of jurisdiction. In this sense, the Ordinance franchised the rural council with further authorities, in addition to its extant ones.<sup>109</sup> However, the causes which impeded the success of the 1921 ordinance remained unresolved in the 1940s, and the new Ordinances, notwithstanding the additional powers and authorities they conferred to the rural councils, kept the power and authorities of the district commissioner (granted by the 1921 ordinance) in place.

The district commissioner, for instance, had the right to dissolve these councils any time he considered it proper to do so. Furthermore, the duration of any council meeting was decided by the district commissioner, and any activities carried out by these councils had to be approved by the district commissioner (Article 10 of Local Council Ordinance No. 36 of 1941). The 1945 Local Authorities "Business Order" even reserved the power to approve or disapprove any verification in the Business tax which these councils empowered to levy (Article 4 Local Authorities "Business Tax" Ordinance No. 29 of 1945") for the district commissioner.

Exacerbating the potential problems of the above political arrangements, the village's cultural setting remained hostile to any trend of institutionalization. The failure of the mandate to bring about any significant cultural changes in this respect (through education for example) allowed for a large a percent of Palestinian villagers to be hostile to rural councils and prompted villagers to perceive such councils as threats to their traditional way of life. This belief was strengthened among Palestinian villagers by the fact that the mandatory government, which founded these councils, was a foreign power.

In fact, this situation reveals the other side of the problem. When the mandatory government enacted its ordinances, it was inspired by a European culture which emphasised horizontal relations and the individual as a self-contained entity. This contradicted the traditional cultural setting of the Palestinian village, which emphasised vertical relations and community affiliation. The facts that the number of Palestinian rural councils decreased from 23 in 1924 to 11 in 1948, the year when the

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<sup>109</sup> See Article 3 (1) of "Local Authorities (Business Tax) Ordinance No.29 of 1945". In *Ibid.* Pp.167-169.

mandate was terminated, and that the local Jewish councils (which mainly served European-oriented communities) increased from 4 in 1924 to 26 councils in 1948,<sup>110</sup> seem to confirm how various cultural settings demote or promote the success of local authority schemes.

At the municipal level, various legal and political factors impeded the advancement of an efficient municipal system, creating to a situation in which municipalities “...serve as the collective mouthpiece of the people towards the District governors...they are permitted to carry out their functions as independently as possible, but it is at the same time essential that their activities should be carefully correlated with those of district administration; and with this end in view each District Governor is responsible for the work of the local authorities within his district”.<sup>111</sup>

This was the situation in which the municipalities found themselves up to 1927, when the first municipal elections were conducted. Before that, the mandatory government appointed mayors and deputy-mayors to the various municipal councils. When the mandatory government promulgated the first Municipal Franchise Ordinance in 1926, providing for elected municipal councils, the voting qualifications were so demanding that only male Palestinian citizens of 25 years and upwards, with tax-rate paying qualifications, were eligible to vote.<sup>112</sup> Thanks to this system, only the *ayan*, who enjoyed high standards of living in comparison to other Palestinians, had been eligible to vote and run in elections. When the elections were held in 1927, the *ayan* filled most of the Arab municipal councils. For instance, out of a total of 12 seats in a municipal council in Jerusalem, ten of these were occupied by the *ayan* and their Christian supporters.<sup>113</sup>

Most of these *ayan* belonged to the El Nashashibi opposition camp, and were involved in politics. Mainly, they ran the elections according to their competition with the El Husayni Camp (this is to say, the AE and the SMC), whose supporters won only two seats in the municipal council of Jerusalem. The Al-Nashashibi opposition camp emerged in the early 1920s, when Raghib Al Nashashibi, then the Mayor of

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<sup>110</sup> Elazar & Kalchheim (ed.). *Local Government*, op.cit., p.15

<sup>111</sup> See *Palestine Royal Commission Report (Peel Commission)*. July 1937, P.347.

<sup>112</sup> Ibid, Pp.347-348.

<sup>113</sup> Porath, op.cit., P.239-240

Jerusalem, founded the “Arab National Party” as a counter-political front for the AE and SMC. The party, which embraced members of the *ayan* such as Suleiman al-Taji al-Faroukhi, Arif El Dajani, Khalil al-Khalidi and Asa’ad Al-Shuqayri, adopted a more cooperative policy towards the mandatory government, notwithstanding its rejection of the Belfour declaration.<sup>114</sup> In this sense, the camp stood in opposition to the non-cooperative policy of the AE and the SMC, despite the fact that its members were derived from the same social class of the AE and SMC’s members. This fact reveals the other problem that stalled the advancement of an efficient municipal system: a mixing of the civil domain with the political domain in a manner that diverted councils from their intended purposes.

This above situation forced the mandatory government to set 1930 as a year of new municipal elections; however, the outbreak of the Western Wall events abrogated these elections.<sup>115</sup> In 1934, further attempts were made by the mandatory government to activate the municipal system when it promulgated the Municipal Corporations Ordinance, but once again the ordinance conferred sweeping powers and authorities on the Higher Commissioner. The Higher Commissioner enjoyed the right to appoint and dismiss mayors and deputy mayors, the right to fix their salaries, the right to dissolve the councils and call elections, the right to approve members of any committee formed by the councils to regulate and supervise the administration of the civil issues (water supplies, town planning, and so on), the right to approve council transactions, to supervise the council accounts and to approve the council loans, and to approve by-laws.<sup>116</sup>

Importantly, however, the Municipal Corporations Ordinance enabled every townsman to vote in elections (Article 14). However, the Second Schedule annexed to the ordinance defined 'townsman' as every male Palestinian of 21 years or more, with tax-paying qualifications. (Article 2 of the “Second Schedule” of the ordinance). Thus the provisions maintained the municipal electoral base as very narrow. The “Forth Schedule” of the ordinance also asked that any Palestinian who wished to run for the

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<sup>114</sup> A.W. Kayyali, *Palestine: A Modern History*. Beirut: Express International, without year of publication, Pp.130-132.

<sup>115</sup> excerpt of *Palestine Government Annual Report to the League of Nations* (31 December 1930), op.cit.

<sup>116</sup> articles 55(1, 2), 51(1, 2), 53(1), 55(a, b, c), 60(2), 67, 69(1), 81, 99 (4) of the “Municipal Corporations Ordinance No.1 of 1934” cited at Kandel, op.cit., Pp.11-118.

election to said councils be literate (Article 2 of the Fourth Schedule of the ordinance). Given the fact that the *ayan* were the most educated among Palestinians, they alone became eligible to run for election.

Based on this narrow electoral base, new municipal elections took place in twenty-two municipal areas in 1934.<sup>117</sup> Of course the elected councillors came from the *ayan*, who could pay the annual tax on property/income, and who had access to education. In addition to their unrepresentative nature, most of these twenty-two new elected municipalities suffered a lack of public support (mainly due to the cultural setting), as well as an inability to assume any initiative thanks to strict governmental control provided for in the 1934 ordinance.<sup>118</sup> This state of affairs lasted until 1936, when the Great Revolt (1936-1939) erupted.

At the outbreak of the Great Revolt, not a few of the Palestinian mayors were involved in the revolution's activities and some of them, like the mayor of Jerusalem Dr. Hussein Fakhri Effendin al-Khalidi, joined the Arab Higher Committee (AHC) that had been set up to direct revolutionary activities under the leadership of the SMC's president Amin El Husayni.<sup>119</sup> Owing to the escalation of these activities, a Royal British commission of inquiry (called the Peel-Commission) arrived in Palestine in November 1936 to investigate the reasons for the unrest. Its report concluded in July 1937 with the commission recommending the abrogation of the mandate, and a partitioning of Palestine into two states: one for Jews and the other for Palestinians. The AHC's leaders, with the exception of Raghib Al Nashashibi, rejected the partition proposal and declared their fundamental opposition to a cession of any part of Palestine.

The AHC rejection of the partition plan, along with the murder of the British district commissioner of Galilee L.Y. Andrews, marked a new phase in the future of Palestinian mayors.<sup>120</sup> The mandatory government, shocked by Andrews' murder,

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<sup>117</sup> excerpt of *Palestine Government Annual Report to the League of Nations* (31 December 1934). Online <<http://domino.un.org/unispal.nsf/0/a212ce7d6edb27c6052565d4005af973?OpenDocu...>>.

<sup>118</sup> *Palestine Royal Commission Report (Peel Commission)*. July 1937, P.351.

<sup>119</sup> Excerpts of *Palestine Government Annual Report to the League of Nations* (31 December 1936). Online <<http://www.us-israel/jsource/history/mandate36.html>>

<sup>120</sup> Ari J. Sherman. *Mandate Days. British Lives in Palestine, 1918-1948*. London: Thomas & Hudson, 1997, P.122.

declared AHC illegal and arrested most of its leaders. The remaining members of the AHC had to follow in the footsteps of Amin El Husayni, who fled the country after being fired from the presidency of the SMC. With the collapse of the AHC and the detention of its members, those mayors who joined the AHC, and those who were involved in revolutionary activities, were removed from office.

On the eve of the Second World War then, a total of eight Palestinian mayors found themselves removed from office for political reasons.<sup>121</sup> The mandatory government measure against these mayors restrained the remaining fourteen elected mayors still in place from involving them in any political activities. This describes the Palestinian mayoral scene up to the end of the Second World War, after which point the 8 removed mayors resumed their political activities (before the State of Israel was declared in May 1948).

The inception of the state of Israel terminated the Mandate rule over Palestine, and scattered the Palestinian society throughout the Arab world. While some 160,000 Palestinians remained in the territories under Israeli control, and were then dubbed the “Arabs of Israel”, still around 750,000 Palestinian were displaced from their land and scattered throughout neighboring Arab countries, the West Bank and the Gaza Strip (the only Palestinian lands which remained under Arab control after the war). Of this number, tens of thousands joined the 70,000-100,000 Palestinians who already inhabited the Gaza Strip, while other tens of thousands joined the 350,000 Palestinians in West Bank. The remaining Palestinians dispersed between Transjordan, Syria, Lebanon, Egypt, and other countries.<sup>122</sup>

The dispersion of Palestinian society throughout the Arab world left the issue of Palestinian access to national and local level state institutions subject to the good will of those Arab states, in particular to Jordan and Egypt, under whose control the West Bank and the Gaza Strip (the only Arab territories remaining after the war) came to rest. While Egypt did not extend citizenship to the inhabitants of the Gaza Strip, leaving them to maintain their Palestinian nationality, Transjordan did. Egypt,

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<sup>121</sup> Moshe Ma'oz. *Palestinian Leadership on the West Bank: The Changing Role of the Mayors under Jordan and Israel*. London: Frank Cass, 1984, P. 24.

<sup>122</sup> Figure sourced from Don Peretz. “Palestinian Social Stratification: The Political implications”. In *Palestine Studies* 25. Vol. VIII, No. 1, (Autumn 1977), P.56.



accordingly, supported the establishment of the “all Palestine Government” in Gaza in September 1948, but the powers and the authorities of this government were shadowy, and limited by Egypt's permission (the country enacting military administration within the Gaza Strip).

The "all Palestine Government", first headed by Ahmad Hilmi Pasha before Amin El Husayni took it over, was thus used by Egypt as an instrument to abrogate the ambitions of the Amir of Transjordan Abdallah in the West Bank. Abdallah, who sought to extend his rule over the West Bank, sponsored two conferences of West Bank *ayan*, mainly involving those from the El Nashshaibi camp. The most important of these conferences was the Jericho conference, which took place on 1 December. This conference, convened under the leadership of Sheikh Muhammad Ali al Jabari, the mayor of Hebron and loyal to Amir Abdallah, called for the immediate annexation of Arab Palestine to Transjordan under the crown of Abdallah. This resolution urged the Transjordan Parliament to endorse the annexation of the West Bank to Transjordan on 13 December, 1948.<sup>123</sup> The eventual approval of the West Bank annexation by the Transjordan parliament marked the collapse of “the all Palestine Government Scheme” and placed the West Bank under Trans-Jordanian civil rule. Due to this split between Egyptian Military administration in the Gaza Strip, and Jordanian civil rule in the West Bank, the Gaza Strip and West Bank have had very separate experiences in terms of local autonomy.

### ***The Gaza Strip's Autonomy under the Egyptian Rule***

The extension of Transjordanian civil rule over the West Bank and Egyptian military rule over the Gaza Strip initiated a new phase of Palestinian access to national & local level state institutions. During the mandate, as we have seen, the Palestinians were granted access to the national level institutions; however, due to political reasons, they refused to take part in these institutions. This situated Palestinians apart from state power, badly positioning them to take part in shaping the future of their country.

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<sup>123</sup> Benjamin Shwadrán. *Jordan: A State of Tension*. New York: Council for Middle Eastern Affairs Press, 1959, Pp.279-283. See also Aqil Hyder Hasan Abidi. *Jordan: A Political Study, 1948-1957*. New York: Asia Publishing House, 1965, Pp.49-60. And see Laurie A.Brand. *Palestinians in the Arab World: Institution Building and the Search for state*. New York: Columbia University Press, 1988, Pp.22-25.

At the level of local government, rural and municipal councils were made available to Palestinians. Yet while Palestinians were involved with these institutions, cultural and political factors kept the institutions from developing an effective system of local government. Generally, until the end of the mandate rule both the Gaza Strip and the West Bank shared the same historical experience in terms of Palestinian autonomy. However, once Egyptian military administration asserted itself in the Gaza Strip, and Jordanian civil rule in West Bank, these two regions were set on different paths.

Unlike the West Bankers who gained access to national level state institutions shortly after its annexation, and who managed to influence state policies through these institutions (as will later be further explained), the Gazans had to wait until 1962 for such access. In the Gaza Strip, the Egyptian military governor, appointed by virtue of Order No. 1 of June 1<sup>st</sup> 1948, vested all the powers and authorities of the former British Higher Commissioner in himself<sup>124</sup> and was consequently able to block Gazan access to all levels of state power. This was the situation until March 1962, when the Egyptian regime enacted a constitution that provided for a legislative council.<sup>125</sup> While this council, comprised of 22 elected and 10 appointed members (Art. 30), sought to encourage Gazan participation in the administration of the affairs of the Gaza Strip, the electoral base and the powers of this council were too narrow to attain this goal.

To start with, the ten appointed members were decided on by the military governor, and only those who enjoyed the membership of the local committees of the Arab National Union “ANU” (which had formed as grassroots institution to support the Nasser regime of Egypt) had the right to participate in the election of twenty-two members to the council (Art. 30). In addition to the right to choose the ten non-elected members, the military governor, who himself presided over the council (Art. 30) and controlled the executive authorities (Art. 15), also retained the right to call or suspend the council’s sessions, to approve or disapprove the council’s Standing Order, and to veto and promulgate laws issued by the council (Art. 36, 40, 42). In exchange, the council, with the exception of its nominal right to question executive members, was

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<sup>124</sup> Order # 1 in *Al Waqea’ El Filistaniya* (Arabic). The formal Gazette of Gaza Strip, Number 1, 31 December 1949.

<sup>125</sup> Ibid. Extraordinary Volume, 29 March, 1962.

deprived of any right to hold the executive body accountable by means of motions of no-confidence, ad-hoc committees of inquiry, and other methods of monitoring (Art. 44, 45).

When the elections were held, only 345 Gazans voted. All the voters enjoyed the membership of the local committees of the Arab National Union mentioned above. The Gaza Strip was divided into four constituencies; Gaza (along with its surrounding villages and camps), Dier El Balah (along with its surrounding villages and camps), Khan Younis (along with its surrounding villages and camps), and Rafah (along with its surrounding villages and camps). The number of seats per constituency was stipulated in proportion to the number of members in the local Arab National Union committees, as the below table illustrates:

<b>The Constituency</b>	<b># of members of local committees of ANU</b>	<b># of Seats</b>
Gaza	167	10
Khan Younis	72	5
Dier El Balah	57	4
Rafah	49	3
Total	345	22

Source: Articles 2, and 3 of Order (12) for the year 1962 in *Al Waqea' El Filistaniya* (Arabic), op.cit., Extraordinary Volume, 20 May 1962.

The results of the elections again revealed an *ayan* domination over the council (the *ayan* being the original residents of the Gaza Strip). Out of the ten seats of the Gaza constituency, seven were occupied by the *ayan*, and out of the five seats of the Khan Younis constituency, four seats were occupied by the *ayan*. In a similar fashion, at least three seats of the seven designated to the Dier El Balah and Rafah constituencies were occupied by the *ayan*.<sup>126</sup> Moreover, the Military governor appointed no less than five *ayan* (original residents) to the council. The *ayan* therefore occupied 19 seats (59%) of the 32 seats of the council.<sup>127</sup> They constituted an overwhelming majority, by means of which they restored their earlier status and reproduced its influence over society, reversing its withdrawal forced by the inception of the state of Israel.

<sup>126</sup> See Ibid. Extraordinary Volume, 30 May 1962.

<sup>127</sup> Ibid.

The tendency of the Egyptian regime to promote the idea of this council and to advance the status of the *ayan* in the Gaza Strip must be understood within the context of the challenges such regime encountered. In fact, the idea of the council was advanced after the collapse of Egypt's union with Syria in 1961, and around the time of the rise to power of the Syrian Ba'ath (Arab Renaissance) party in 1963. The Ba'ath party, with its socialist-pan-Arabic ideology, proposed a serious threat to the Nasser-led pan-Arab scheme, and thus to Nasser's hegemonic control of the Arab world.

Nasser, accordingly, seemed eager to act to counter the growing 'threat' of the Ba'ath party. Owing to its importance for Arabs, the Palestinian cause emerged as a significantly potential instrument with which to legitimize Nasser's hegemony. In acting as a primary patron of the cause, in support of Palestinian political rights including the population's right to an independent political identity, Nasser pursued a policy which was mainly intended to restore his status and keep his hegemony intact.<sup>128</sup> Thus it makes sense that, while Nasser appeared to support Palestinian autonomy, he was also constantly concerned that the Palestinians would remain outside his sphere of control. Consequently, he aimed to promote Palestinian autonomy only in keeping with his own terms and political calculations. This might explain Nasser's support for the creation of a Palestinian council that would exhibit the limited powers and narrow representation described above; the Egyptian regime's policy regarding local government in the Gaza Strip only supports this analysis.

The central authority in Cairo, for instance, left the 1934's municipal law in force in the Gaza Strip, thereby conferring sweeping powers and authorities onto its Egyptian military governor. The military governor enjoyed the right to appoint and dismiss mayors and deputy mayors, the right to fix their salaries, the right to dissolve the councils and call elections, the right to approve members of any committee formed by the councils to regulate and supervise the administration of the civil issues (water supplies, town planning, and so on), the right to approve council transactions, the right to supervise council accounts, the right to approve council loans and the right to

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<sup>128</sup> Moshe Shemesh. *The Palestinian Entity, 1959-1974: Arab Politics and the PLO*. London: Frank Cass, 1988, Pp.1-14.

approve council by-laws (for details on the 1934 law see the discussion of Palestinian autonomy under the British mandate).

But unlike the British Higher Commissioner, who permitted municipal elections, albeit with a narrow electoral base (only franchising male Palestinians of 21 years or more, with tax-paying qualifications), the Egyptian military governor tended to appoint councillors and mayors in large part from the *ayan* population.<sup>129</sup> Due to these regulations, Gazans experienced no municipal elections from this point onwards (under the Israeli occupation, as we will see later, the municipal mayors and councillors were also appointed rather than elected). Gazans were denied any part in deciding their own political affairs and, again, most of those people appointed to municipal offices were derived from the *ayan* population, or from loyalists who supported the Egyptian regime.

### ***The Political Implications of West Bankers under Jordanian Rule***

With the introduction of the Jordanian civil rule over the West Bank, new developments unfolded. Unlike Gazans, West Bankers, in particular some *ayan* and other loyalists, had access not only to the legislative body, but also to high-ranking government posts. The El Husayni camp, which stood in opposition to the annexation of the West Bank by Transjordan, forged an alliance with the Egyptians and sought an independent Palestinian state. Alternatively, the El Nashashibi camp forged alliances with Amir Abdallah and supported unity between the West Bank and East Bank.<sup>130</sup>

In response, Amir Abdallah dissolved the Supreme-Muslim Council, the main source of El-Husayni power, and put his newly established Ministry of religious affairs in charge of all Arab religious matters in Transjordan and the West Bank. On 3 May 1949, after having dissolved the Cabinet, Amir Abdallah also issued a Royal decree that appointed Ragib El Nashashibi, Ruhi Abdel Hadi, Musa Nasir and Khulusi Khairi to the Ministries of Refugees and Rehabilitation, Foreign Affairs, and Agriculture and Commerce, respectively. This set of appointments was not a unique gesture; during

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<sup>129</sup> Sara Roy. *The Gaza Strip Survey*. Jerusalem: The Jerusalem Post, 1986, P.131.

<sup>130</sup> See Joseph Nevo. *King Abdallah and Palestine: A Territorial Ambition*. Oxford: Macmillan, 1996, Pp.76-82.

the period of 1952-1956 no less than 15 Palestinians were appointed to ministerial positions, most of them coming from the El Nashashibi camp.<sup>131</sup>

Further steps were also taken to incorporate Palestinians into the Transjordanian state institutions and apparatus, and the most important of these steps was the ordinance of June 1949, which altered the name of the state from 'Transjordan' to the 'Hashemite Kingdom of Jordan' in acknowledgement of changes made to the country's boundaries. The June 1949 ordinance was followed by another in December, which granted Palestinians Jordanian citizenship and so enabled them to participate in legislative elections. The last of this particular set of incorporative gestures, two ordinances were issued in the same month to expand the number of parliamentary seats from 20 to 40, and to allow Palestinians to nominate themselves.<sup>132</sup> However, the results of opening the legislative body to Palestinians were exactly those feared by the Hashemite regime: instead of containing and absorbing Palestinians, the legislative body ended up hosting Palestinians attempts to alter state policy against the king's wishes.

When the first legislative elections were held after the merger in April 1950, at least 175,000 West Bank inhabitants went to the polls to choose between 125 candidates (65 of whom were from West Bank).<sup>133</sup> Out of the 40 deputies eventually elected, 16 were from the West Bank.<sup>134</sup> Some of these deputies were affiliated with the main parties that existed in the West Bank at the time, such as the Communist Party, the Ba'ath Party, Muslim Brothers, the Liberation party and the Arab Nationalists Movement (*Harikat A-Qawmiyun Al-Arab*). All of these parties opposed the Hashemite regime, and more importantly, they recruited intellectuals like teachers, students, doctors, lawyers and so forth in support of their cause.<sup>135</sup>

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<sup>131</sup> Shaul Mishal. *West Bank/East Bank: The Palestinians in Jordan, 1947-1967*. New Haven & London: Yale University Press, 1978, Pp7-8, 41-42.

<sup>132</sup> Abidi, op.cit., Pp. 65-67.

<sup>133</sup> Ibid., P.67.

<sup>134</sup> Naseer H. Aruri. *Jordan: A Study in Political Development (1921-1965)*. The Hague: Martinus Nijhoff, 1972, P.94

<sup>135</sup> For a discussion of these parties see Amnon Cohen. *Political Parties in the West Bank Under the Jordanian Regime, 1949-1967*. Ithaca and London: Cornell University Press, 1982.

Most of these intellectuals, having benefited from educational opportunities offered by the Jordanian regime post-annexation, derived from the rich (*ayan*) families. However, thanks to their education, as Palestinians they broke with the conservative nature of the *ayan*, and challenged Jordanian activities in West Bank, seeking to realize Palestinian allegiance by way of Palestinian, pan-Arab or pan-Islam options. Moreover, Palestinian intellectuals sought fundamental changes to their extant political arrangements, in particular wanting alterations made to the Hashemite constitution that made the cabinet responsible to Abdallah, rather than to the parliament.

In the beginning, Palestinian demands to change such political arrangements encountered strong opposition from Abdallah, who refused to yield any portion of his authority. However, in the aftermath of Abdallah's assassination in 1951, the newly proclaimed King Talal bowed to their wishes and in January 1952 enacted a new constitution that made the cabinet responsible to parliament before the king, reversing the previous case. When King Husayn assumed power in 1953, other steps toward political liberalization were also taken, although these steps ultimately failed to moderate Palestinian opposition to the Jordanian regime (particularly in light of Jordan's foreign policy).

The split between Palestinians and the Jordanian regime over the Baghdad Pact provides a case in point. The pact, which adopted a pro-Western policy, was founded in February 1955 and at that time included Iraq and Turkey; in March, Great Britain joined in as well. The pact formalised a counter coalition that stood in opposition to the pro-Arab coalition that mainly consisted of Egypt, Saudia Arabia, and Syria. Husayn expressed a desire to join the former on several occasions, however Palestinians — along with Egyptian and Syrian populations, as well as Jordanian nationalists — opposed Husayn's rapprochement and, from December 1955 to January 1956, wide-scale demonstrations protesting the agreement broke out in various cities and towns located in the West Bank. Palestinian opposition to the pact, bolstered by the Arab states' position and coupled with the position of Jordanian nationalists, forced king Husayn to refrain from joining.<sup>136</sup>

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<sup>136</sup> Shwadran, op.cit., Pp.315-335 & Aruri. *Jordan*, op.cit., Pp.119-134.

Husayn's failure to join the Baghdad Pact was a significant victory for Jordanian nationalists, as well as for Palestinians. This victory was consolidated when these nationalists and Palestinians occupied 30 of the 40 seats that made up the Jordanian legislative body following the elections of October 1956.<sup>137</sup> The largest single party in the legislative body at that time was the Nationalist Socialist party, under the leadership of Suleiman El Nablusi. According to the Jordanian constitution, the party that won the highest number of seats in the legislative body forms the government, therefore at this time Suleiman El Nablusi was entrusted with this task.

Reflecting his fidelity to pan-Arabic ideology, El Nablusi placed both Jordanian Nationalists and Palestinians in key cabinet posts in the Defence, Interior and Foreign Ministries, and adopted an anti-Western political programme. This programme clashed with the King's plans to join the American coalition, and should be contextualised by the newly emerged Eisenhower Doctrine. As a result of this clash, the king refrained from his liberal internal policy, dismissed the cabinet, outlawed political parties, arrested and deported most of the nationalists, declared martial law, banned freedom of expression, and formed a new cabinet under one of his most loyal followers: Ibrahim Hashim.<sup>138</sup> In doing this, the king restored royal absolutism, and tightened his control over the country's society.

This brief survey of the political situation in the early years of the annexation demonstrates how Palestinians, through their participation in national state institutions, were able to affect the Hashemite regime's national policies in spite of the oppressive measures later adopted by king Husayn. This must be recognised for the reason that it reveals the political considerations that generally guided the Jordanian legislature's treatment of the issue of Palestinian local autonomy.

### **Local Government in the West Bank, Under Jordanian Rule**

Once it extended its civil rule over the West Bank, the Hashemite regime sought to establish strict control of systems of local government by tying them to the central authority in Amman. Accordingly, two decrees were issued in March 1949 dividing the West Bank into three districts: Hebron, Ramallah, and Jerusalem. These decrees

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<sup>137</sup> Abidi, *op.cit.*, p.144.

<sup>138</sup> Aruri. *Jordan*, *op.cit.*, Pp.134-150.



subordinated the three newly appointed Palestinian civil governors of these districts to the Minister of Interior, who was entrusted with all the powers and authority once vested in the former British Higher Commissioner.<sup>139</sup> In this sense, the Minister of Interior enjoyed the right to call municipal elections, the right to dismiss municipal councils, the right to appoint new ones, the right to appoint and dismiss mayors and to fix their salaries, and the right to control municipal councils' budgets

These conditions persisted until 1954, at which time — following his 1953 inauguration — King Husayn adopted a number of liberal measures, among which was the municipal law no. 25, of 1954. This law laid down two mechanisms for the advancement of local government at village and town levels. According to the law, local councils comprised of 3-11 appointed members were supposed to be established in any village with a population of less than 2,500 inhabitants.

It was instructed that the members and heads of these councils were to be appointed by each district's civil governor, who was empowered to approve all administrative, technical and financial decisions made by the councils. As they had previously enjoyed such powers, civil governors tended to appoint the council members from among the traditional chiefs or *Mukhtars*.<sup>140</sup> At least 96 rural councils were appointed and regulated by the 1954 law during the Jordanian period.<sup>141</sup> Because this law provided the base for rural autonomy until the termination of Jordanian rule in 1967, until 1967 village councils were therefore under strict governmental control and in particular fell under the power of the Minister of Interior (even the district civil governor being subject to the management of this office).

As far as local autonomy at the town level was concerned, with the exception of a short period of time, most of the West Bank municipal councils suffered the same restrictions as the rural councils. When the law of 1954 was enacted, it included provisions that secured strong legal foundations for the advancement of effective

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<sup>139</sup> Abidi, op.cit., Pp.68-69.

<sup>140</sup> Drawn from *Decentralized Good Governance: Jordan Case Study*. Prepared by Jordan Institute of Public Administration. UNDP Decentralized Programme, 1998. online  
<<http://www.pogar.org/resources/decentralization.html>>

<sup>141</sup> Moshe Drori. "Local Government in Judea and Samaria". In Meir Shamgar (ed.). *Military Government in the Territories Administered by Israel*. Jerusalem: Alpha Press, Vol. 1, 1982, P243.

mechanisms of local autonomy at the town level. The law, for example, called for municipal elections every four years and revised the voting qualifications of the 1934 British Municipal Ordinance to enable all Palestinian men aged 18 or older to vote in the municipal elections, even if they did not pay taxes. In addition, the law limited the power of the Minister of Interior over the municipal councils, and enabled said municipal councils to elect their own mayors and to fix their salaries independently.<sup>142</sup> The law thus weakened the municipalities' ties to the central authority in Amman, and established the legal foundation for widespread political participation.

A side note, however: the Hashemite regime refrained from the law and itself promulgated a new one in 1955. The new law revived the restrictions imposed by 1934's law addressing voting rights, and confined these rights to males who were aged 21 years or older and who paid at least one Jordanian dinar per year in business or property tax. This clause again gave the rich families and landowners a greater chance of being elected to the councils than others for, as an example, if someone paid 1000 dinars in tax he would secure for himself, his friends or his family 1000 votes.

Furthermore, the government once again controlled the post of mayor (that is, the rights to appoint mayors and to fix their salaries) and entrusted itself with the right to appoint two *ex-officio* councillors. This clause, in tandem with the narrow electoral base, enabled the government to prevent the entry of opponent political forces into these councils. Moreover, the government controlled all the financial affairs of the municipalities and thus left these municipalities dependent on the central authority in Amman.<sup>143</sup>

The power of the government in this regard was used to discriminate between municipalities in the East Bank and those in the West Bank. Unlike the municipalities in the East Bank, most municipalities in the West Bank suffered a lack of revenues sufficient to cover their expenditures. In 1967, for instance, the mayor of Jenin complained that it had been "more than three years that the municipality of Jenin have

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<sup>142</sup> Ma'oz. *Palestinian Leadership*, op.cit., Pp.27-28.

<sup>143</sup> For a discussion of the law see *Ibid*, Pp.28-30 & Sasson Levi. "Local Government in the Administered Territories". In Daniel J. Elazar (ed.), *Judea, Samaria, and Gaza: View on the Present and Future*. Washington & London: American Enterprise Institute for Public Policy Research, 1982, Pp.106-109. See also Moshe Drori. "Local Government in Judea and Samaria", op.cit., Pp. 245-250.

requested 400 Dinars annually from the tax committee for education and culture...in order to rent a building for the male primary school in Jenin.”<sup>144</sup>

Beyond their inability to carry out educational projects, Palestinian municipalities were also unable to carry out water and electricity projects. In the pre-1948 period, the main source of water in both the West Bank and Gaza strip was groundwater (pools). After the 1948 war, the United Nations for Refugees and Working Agency (UNRWA)<sup>145</sup> took the responsibility of supplying water to refugee camps; the municipalities supplied the cities and, in part, the camps located within their territories. This split situation continued until 1964 when the Jordanian government, after having received a grant from the Agency of International Development (AID), established the Jerusalem District Water Authority to develop water supply projects in cooperation with the municipalities. Had there been no grant, West Bank cities would have entirely lacked water such projects.<sup>146</sup>

With respect to electricity, the situation was worse. It was not until 1959 that West Bank cities had an effective and uniform supply of electricity. This development took place after the municipalities of Jerusalem, Ramallah, Al Bireh, Beit Jala and Beit Sahour took the initiative and established the Jerusalem District Electricity Company (JDEC) in 1956. However, due to lack of financial support, this company failed to ensure a supply of electricity for all urban and rural areas. By 1967, the year when Jordanian rule in the West Bank terminated, around 20% of the urban areas did not have a regular supply of electricity, with only around 23% of rural areas enjoying electricity for but a few hours a day.<sup>147</sup>

The failure of the Palestinian municipal system to provide regular basic utilities and services was not merely due to wide-scale governmental intervention and lack of

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<sup>144</sup> Ma'oz. *Palestinian Leadership*, op.cit., Pp. 35-36.

<sup>145</sup> On 8 December 1949, in response to the refugees' crisis, the United Nations General Assembly decided to set up the UNRWA in order “to carry out...the direct relief and works programmes” for the assistance of the Palestinians refugees. See Resolution No.302 (IV) in George J. Tomeh (Ed.). *United Nations Resolutions on Palestine and the Arab-Israeli Conflict: 1947-1974*. Beirut: Institute for Palestine Studies, 1975, Pp.18-20.

<sup>146</sup> See Sameer A. Abu-Eisheh. *Public Utilities in the West Bank and Gaza Strip*. United Nations Conference on Trade and Development, 21 October 1994, Pp. 9-12. Online  
<<http://domino.un.org/UNISPAL.NSF/0/371db8e567f212b6802563fe00620111?open...>>

<sup>147</sup> *Ibid.*, Pp.12-13.

financial support; rather, it must also partially be blamed on the absence of necessary social prerequisites for the attainment of an effective municipal system. Jamil Hilal noted that the Jordanian regime's role in fortifying some Palestinian families at the expense of others (through inclusive and exclusive policy-making), was not accompanied by essential, fundamental changes to the basic principles of such elite formation.<sup>148</sup> In other words, functioning as it had historically, clan and familial background remained the factor that determined a person's access to social power.

When the family or clan constitutes the basic social unit in a given society, individual decision-making processes are guided by factors other than rational choice. Consequently, even if there were a strong legal foundation for the advancement of an effective Palestinian municipal system, and even if elections for municipalities had been held, it still seems unlikely that such elections would be capable of promoting the professional talents needed for an efficient municipal system if these talents were not paired with the obligatory clan status.

Thus the main problem lay in the voting mentality. As shown, Palestinian voters would treat these councils as means to perpetuate a given family's power, rather than as a device to encourage an effective municipal system. This meant that the social foundation needed for an efficient municipal system was absent from the Palestinian scene. Given this lack, given the comprehensive power (over these councils) that was enjoyed by the Hashemite regime, and given the absence of wide participation in the elections, the Jordanian regime of course encountered little resistance to its use of these councils as instruments with which to support its rule over West Bank.

The Hashemite regime's tendency to support its rule through certain municipalities is evident in the appointments made to those municipalities. Sheikh Muhammad Ali al Jabari, for instance, was a member of one of the principal families in Hebron, and was considered one of the most famous of the Hashemite regime's loyalists; he served as Hebron's mayor for about three decades. In other cities like Nablus, members of

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<sup>148</sup> Jamil Hilal (Arabic). *Takween El Nokhba El Filistinya Munz Noshoo' El Harkah El Watanya elah Ma ba'd El Sulta El Watanya*. (The Formation of the Palestinian Elite: From the Palestinian National Movement to the Rise of the Palestinian Authority). Ramallah/Palestine: The Palestinian Institute for the Study of Democracy, 2002, Pp.31-33.

wealthy families like El Masri, Shaka' and Kan'an, enjoyed status similar to that of Al-Jabari.<sup>149</sup>

Until 1967 therefore, only members of the upper-level income families and big clans (*ayan*) enjoyed access to local level government institutions; in 1967 the West Bank and Gaza Strip were occupied by Israel. Around this time, Arab states then founded the Palestine Liberation Organization (PLO) to enable Palestinians to play a part in liberating their country. Meanwhile, Yasser Arafat and his movement "the Palestinian National Liberation Movement" or Fatah (its reversed Arabic acronym), were advancing their own status in the Arab world.<sup>150</sup>

Following the 1968 *Al Karamah* battle,<sup>151</sup> Fatah — via a plan of an armed struggle organised with other guerrilla groups such as the Popular Front for the Liberation of Palestine (PFLP) and the Democratic Front for the Liberation of Palestine (DFLP) — succeeded to dominate the PLO. The rise of the guerrilla groups within the PLO, combined with the 1974 Arab states' endorsement of the PLO's claim that it was the sole representative of Palestinians and the following parallel endorsement made by the UN General Assembly,<sup>152</sup> promoted the PLO as one of the most influential variables affecting the future of Palestinian local autonomy under Israeli occupation.

### ***Palestinian Autonomy under Israeli Occupation***

In 1967, following its war with Egypt, Syria, and Jordan, Israel captured the West Bank (including East Jerusalem) and the Gaza Strip. Israel's assumption of these Palestinian territories formally ended Jordanian rule and Egyptian military administration within both the West Bank and the Gaza Strip. On 7 June 1967, the military order no. 2 was proclaimed and concentrated all powers and authorities

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<sup>149</sup> chapter 3 (48-59) in Ma'oz. *Palestinian Leadership*, op.cit.

<sup>150</sup> For a discussion of the developments regarding the formation of the PLO and the Fatah movement, see chapter 2 (Pp.21-35) in Helena Cobban. *The Palestinian Liberation Organization: People, Power, and Politics*. Cambridge: Cambridge University Press, 1984.

<sup>151</sup> In Jordan in March 1968 the Israeli forces attacked the Palestinian refugees camp of *Al Karamah*. Newly emerged Palestinian guerrillas like Fatah, the PFLP, the DFLP along with Jordanian troops, defended the camp and inflicted considerable losses on the Israeli troops. This success offered the Arabs, who deeply suffered the humiliated defeat of 1967, a much needed glimmer of pride and restored their self-confidence. This fact introduced certain Palestinians, in particular Arafat and his movement, as heroes. For a discussion of this battle. see *Ibid.*, Pp.41-43.

<sup>152</sup> *Ibid.*, Pp.58-63.

divested from the former regimes in the hands of an Israeli military governor. Article 3 (a) of this order reads; “Any power of government, legislation, appointment, or administration with respect to the Region or its inhabitants shall henceforth be vested in me alone and shall be exercised only by me or by a person appointed by me to that end or acting on my behalf”.<sup>153</sup>

Though the order enabled the military governor to assume the same powers and authorities of the former Jordanian regime and the Egyptian military administration, the manner in which Israelis exercised these powers and authorities differed. The difference lay mainly in the Israel’s systematic policy of land appropriation for the purposes of settlement. The first signs of this policy appeared in a plan made in June 1968 by Yigal Allon, then Minister of Labour in the Israeli Labour government. Allon’s strategy, commonly referred to as the Allon Plan, proposed among other things a Jewish settlement strip in a 10-15 kilometer-wide plot of land that runs along the Jordan Rift Valley.<sup>154</sup> Accordingly, 18 rural settlements and 12 industrial and agricultural settlements were built in the relatively unpopulated Jordan Valley between 1968 and 1977; in 1977 the Likud Party assumed power.<sup>155</sup>

With the Likud party in power in 1977, the Allon plan was expanded to include settlement in the more populated areas of the West Bank and the Gaza Strip. Following an ideological commitment to a “Greater Israel” that claims the West Bank – “Judea and Samaria”, in Likud terminology – as an integral part of Israel, the Likud government stepped up settlement in the West Bank and the Gaza strip’s heartland and aimed to block horizontal expansion within these territories.<sup>156</sup> This settlement policy paralleled a policy of creating full employment for Palestinians in both the West Bank and the Gaza Strip, a policy which was pursued with one eye kept on the PLO and which was designed to discourage Palestinian support for the PLO by raising the living standards in the occupied territories; the latter was intended to create

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<sup>153</sup> Shamgar (ed.), op.cit., Pp.450-451.

<sup>154</sup> See “Allon Plan” in Larry L.Fabian & Ze’ev Schiff. *Israelis Speak About Themselves and the Palestinians*. New York & Washington, D.C.: Carnegie Endowment for International Peace, 1977, Appendix III (Pp.207-212).

<sup>155</sup> See Ibrahim Matar. “Israeli Settlements in the West Bank and Gaza Strip”. In *Journal of Palestine Studies*. Vol. XI, no.1 (Autumn 1981), Pp.94-95.

<sup>156</sup> See Ibid., Pp.95-100 & Geoffrey Aronson. *Israel, Palestinians and the Intifada: Creating Facts on the West Bank*. Washington, D.C.: Institute for Palestine Studies, 1987, Pp.59-76.

Palestinian social groups interested in maintaining the status quo (in other words, the occupation). As a result of this policy, no less than 18,000 Palestinians were employed by Israel<sup>157</sup> and by 1987 this number had jumped to 109,000.<sup>158</sup>

Related to this policy was another policy of non-intervention in non-political Palestinian affairs (for example, religious and educational matters). From the very beginning, Israel left Palestinians to run their own religious affairs. This is illustrated by the occasion when it tolerated the re-establishment of the Supreme Muslim Council (SMC), and by how it accepted a Jordanian compensation for religious functionaries (the case before 1967). Nevertheless, despite subjecting the council to strict control and attentive supervision, Israel did not formally recognize the SMC. When some SMC members began to engage in organised resistance against the occupation, the military government deported them.<sup>159</sup>

The measures carried out by Israel toward the SMC's members reveal the main principles of the Israel's policies toward the Occupied Palestinian Territories (OPT). Israel sought neither to Judaize Palestinians nor to extend citizenship to them. On the contrary, Israel was prepared to respond to Palestinian wishes, and sought to leave them enjoying their non-political institutions, insofar as these institutions remained consistent with Israeli rule. This was the main philosophy informing Israel's policy of "co-existence", and remained that policy's trademark throughout the first ten years of the occupation (1967-1977). Moshe Dayan, then Minister of Defence in the Labour government and the main architect of the above policy, clarified its essence in writing the following words:

"The...formula was that while they (Palestinians) were opposed to our rule and wished us to evacuate the territories we had captured, as long as the existing situation continued, normal life was to be maintained".<sup>160</sup>

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<sup>157</sup> Sara Roy. *The Gaza Strip: The Political Economy of De-development*. Washington, D.C.: Institute for Palestine Studies, 1995, P.144.

<sup>158</sup> Samir Barghouthi. "Development of the Palestinian Economy: 1948-1997". Ramallah/West Bank: The Democracy & Workers Rights Centre in Palestine, 1997, P8. Can be found <http://www.dwrc.org/studies/development.pdf>

<sup>159</sup> Emile Sahliyeh. *In Search of Leadership: West Bank Politics Since 1967*. Washington D.C.: The Brookings Institution, 1988, Pp.22-24

<sup>160</sup> Moshe Dayan. *Story of My Life*. London: Weidenfeld & Nicolson, 1976, P.326.

What Israel sought, therefore, was some form of Palestinian reconciliation with that population's new daily reality: the occupation. To elicit this reconciliation, Israel had to find a Palestinian partner that was ready to cooperate according to such terms. Israel's need for this partner grew more and more urgent following the Gaza-based armed resistance that emerged in 1970 to interrupt that "normal life" Israel sought to establish.<sup>161</sup> This armed movement was a clear indicator of the Gaza Strip's principled refusal to cooperate with the occupation and Israeli terms. Accordingly, the military administration assumed strict control of the Gaza Strip's local government institutions by invoking a municipal law in 1934 as the legal frame for the work carried out by these institutions.

The military administration used the sweeping powers this law conferred on territory rulers to appoint four mayors and municipal councils in the four cities of Gaza Strip (Gaza, Khan Younis, Rafah, and Deir El Balah), and eight rural councils in Jabalia, Beit Lahia, Beit Hanoun, Bani Suhlia, Abasan El Kabira, Abasan El-Saghira, Kheza'a, and Zawaida. Three local committees were also formed in three refugee camps (Maghazi, Bureij, and Nuseirat).<sup>162</sup> Each of these institutions was subject to strict control and its future was clearly hostage to the country's changing political situation (see footnote 161).

While the military administration assumed strict control over local institutions in the Gaza Strip, it let the same institutions enjoy a margin of freedom in the West Bank in hopes of supporting the pro-Hashemite conservative Palestinian leadership's rise to power. This leadership, as we have seen, derived from the strongest families in the OPT and controlled important positions in the Hashemite cabinet, the Palestinian

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<sup>161</sup> In August 1970 a wide-scale armed resistance movement emerged in the Gaza Strip. The movement was incited by the shootings and subsequent deaths of two Israeli civilians. In retaliation Ariel Sharon (by then Commander-in-Chief of the southern command) dismissed the mayor Raghieb Al-Alami, dissolved his municipal council, and adopted tough measures against Palestinians in the Gaza Strip. These measures included a twenty-four-hour curfew, the detention of approximately 12,000 Palestinian, and the expulsion of a further 30,000 refugees to the Sinai desert in Egypt. Moreover, Sharon ordered the trees and citrus orchards in the Gaza Strip be uprooted so that the soldiers' field of vision would be improved, and potential hiding places for armed Palestinians eliminated. With these measures Sharon crushed the resistance in March 1971, leaving no less than 7, 00 Palestinians dead. See Uzi Benziman. *Sharon: An Israeli Caesar*. New York: Adama Books, 1985, Pp.115-118. See also Mark Tessler & Ann Mosely Lesch. "Israel's Drive into the West Bank and Gaza". In Ann Mosely Lesch & Mark Tessler. *Israel, Egypt, and the Palestinians: From Camp David to Intifada*. Bloomington and Indianapolis: Indiana University Press, 1989, Pp.229-230.

<sup>162</sup> Roy. *The Gaza Strip*, op.cit., P.132.



municipal councils and other institutions. Yet while this leadership preserved its status in the early years of the occupation, thanks to its active participation in the resistance,<sup>163</sup> it failed to do so following the 1970 Palestinian-Jordanian civil war.<sup>164</sup> The war weakened the prestige of this leadership among Palestinians and at the same time raised the status of the PLO within the OPT, position this leadership in a defensive position with regards to the PLO. Israel perceived this development as an ideal opportunity to proceed with its policy of “co-existence”, for it sensed the weak position of the pro-Hashemite elements and observed those elements might easily be pressured into cooperation. Israel, therefore, announced its intention to hold municipal elections and scheduled these elections for 1972.

### **The 1972 Municipal Elections**

With the 1972 elections Israel sought to achieve two goals: to institutionalize the PLO's defeat in Jordan's civil war by reviving the status of the pro-Hashemite elements within the OPT, and furthermore to proceed with its policy of co-existence (playing off the fact that pro-Hashemite Palestinians would be more moderate negotiators than the pro-PLO faction). Toward these ends, Israel not only pressured the pro-Hashemite elements to present their candidates in the 1972 elections, it also threatened some (for example, Hajj Ma'zuz al-Masri, the mayor of Nablus, and Hafiz Tuqan, head of the Nablus chamber of commerce) with punitive measures in the case that they did not present candidates.<sup>165</sup>

It was under such pressure and bullying that the pro-Hashemite elements took part in the 1972 municipal elections, which were held according to the Jordanian municipal law of 1955 — therefore being held in two rounds and excluding women and young men from participating. The first round took place in March, covering the northern cities of the West Bank, while the second round took place in May and covered the southern cities of the West Bank. With exception to Hebron, where the ex-mayor Muhammad Ali al Jabari was nominated for the mayoralty by consensus, the elections took place in all West Bank cities. Around 32,000 Palestinians were registered as

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<sup>163</sup> Ann Mosely Lesch. *Political Perception of the Palestinians of the West Bank and the Gaza Strip*. Washington, D.C.: The Middle East Institute, 1980, Pp.33-34.

<sup>164</sup> Cobban, op.cit., Pp.48-52.

<sup>165</sup> Aronson, op.cit., Pp.47-48.

eligible voters. Of this number, approximately 26,000 voted for 337 candidates (from 22 municipal councils) who sought 182 municipal seats, excluding the aforesaid municipal seats in Hebron.<sup>166</sup>

Most important were the results of the elections and, in particular, the socio-economic background of those who won seats in the municipal councils. Though more than 50% of the councillors were new faces, these councillors enjoyed the same socio-economic background of the incumbent mayors and councillors re-elected in cities like Nablus, Qalqilya and Tulkarm.<sup>167</sup> The elections therefore brought about no significant changes to the factors that determined Palestinian access to local state institutions. In other words, most of those who were elected or re-elected yet again belonged to extensive clans or wealthy families (*ayan*). Politically, this social set possessed a conservative-moderate view and sought a peaceful solution for the West Bank — either through unity with Jordan, or through another formula to be agreed upon with Israel.

For Israel this conservative elite was more acceptable than the pro-PLO elements and the wishes of their exiled leadership (the PLO); the latter refused to take part in the elections for the reason that they were held under Israel's "flag".<sup>168</sup> In spite of this defiance, however, the results of the elections constituted a great victory for Israel and for Moshe Dayan in particular. Dayan perceived the results as a significant step towards "co-existence" with Palestinians in line with Israeli terms. Only through this conservative leadership, Dayan believed, would Israel enjoy its desired normalization. In his words:

"The acting leaders of the Arab population in the occupied territories were the city mayors. They were the link between the Arab community and the Israeli authorities. It was through them that the administrative procedures were conducted governing commerce — the grant of export and import licenses; entry permits for relatives in the Arab states to visit their families; education and health services; grants and loans for municipal projects; and other affairs of local government requiring the help of the central administration."<sup>169</sup>

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<sup>166</sup> Ma'oz. *Palestinian Leadership*, op.cit., Pp.103-104.

<sup>167</sup> See Ibid., Pp.105-106 & Sahliyah. *In Search of Leadership*, op.cit., Pp.36-41.

<sup>168</sup> Lesch, op.cit., Pp.43-48.

<sup>169</sup> Dayan. *Story of My Life*, op.cit., P.327.

Accordingly Israel, by means of its contact with this elite, could now open a channel of communication between itself and local Palestinian populations, and hence could proceed with its policy of co-existence. Curiously, the other success facilitated by these elections was achieved by King Husayn, who understood the victory of his supporters as a step towards the realization of his own plans for the West Bank. The only loser then was the PLO, whose future in the OPT had suddenly come under serious threat. To remedy its loss in the municipal elections, the PLO turned instead to establishing footholds in various Palestinian academic institutions that had been built under the occupation. Ironically, these institutions were being promoted by the same strategy that had restored the status of the pro-Hashemites: Dayan's policy of "non-intervention".

### **Israel's Policy of Non-Intervention: The Path Toward Political Mobilization**

While the occupation's policy of co-existence helped the traditional leadership to restore its status, the policy of non-intervention actually promoted a new elite that challenged this leadership. The new elite was better educated, younger and more radical than its predecessor. Most of its members derived from village and refugee families, making its font of power the educational programmes that flourished under the occupation.

Prior to the occupation, education services had mainly been provided by the UNRWA. In the West Bank and in the Gaza Strip, UNRWA ran the elementary and preparatory schools. The UNRWA did not operate any secondary educational programmes (excluding some vocational programs).<sup>170</sup> Up until 1948, most secondary schools were private and run largely by Christian and religious institutions, and concentrated mainly in Ramallah and Jerusalem. At the time, the only social stratum with access to these schools was that of the *ayan*.<sup>171</sup>

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<sup>170</sup> See *Social, Economic and Political Institutions in the West Bank and the Gaza Strip*. New York: United Nations, 1982, Pp10-11.

<sup>171</sup> Sarah Graham-Brown. "Impact on the Social Structure of Palestinian Society." In Nasser Aruri (ed.). *Occupation: Israel over Palestine*. London: Zed Books, 1984, P.226.

After the occupation, secondary schools were developed and made available to all refugees (a detailed discussion of education under the occupation unfolds in chapter V). While Israel assumed the running of these schools, the UNRWA continued to manage the elementary and preparatory schools. During the early years of the occupation Palestinians were inspired by the feeling of insecurity evoked by their stateless condition to develop a strong commitment to education. In the academic year 1973-1974, for instance, more than 31% of the territories' total population (excluding East Jerusalem) attended schools (elementary, preparatory, and secondary).

Region	1973/1974	
	Total Population	Number of Students
West Bank	646,200	207,729
Gaza Strip	406,300	123,556

Source: Reproduced from Munir Fasheh: "Impact on Education". In Nasser Aruri (ed.). *Occupation: Israel over Palestine*. London: Zed Books, 1984, P.296.

Two curriculum and examination systems were applied within the territories. While the Jordanian curriculum and examination system were deployed within the West Bank (Excluding East Jerusalem), education in the Gaza Strip was characterised by the Egyptian curriculum and examination system. By 1977, no less than 8,300 Palestinians completed their secondary education (according to the Jordanian/Egyptian examination system), as opposed to about 5,000 in 1969. The following figures illustrate the number and percentage of students who took the Tawjihi (secondary school general examination) in 1969 and 1977.

	1969		1977	
	No.	%	No.	%
Literary	3,021	60.4	5,398	65.0
Scientific	1,780	35.6	2,655	32.0
Vocational	137	2.7	171	2.1
Commercial	37	0.7	57	0.7
Agriculture	24	0.5	19	0.2
Total	4,999	100.0	8,300	100.0

Source: Munir Fasheh: "Impact on Education". In Nasser Aruri (ed.). *Occupation: Israel over Palestine*. London: Zed Books, 1984, P.303.

These students, in particular Literary and Scientific students, originally attended neighbouring Arab countries' universities (mainly in Egypt and Jordan); however, during 1970s, the OPT underwent important developments in terms of postsecondary education. Many higher education institutions were established, making it possible for Palestinian students to engage in higher education without leaving the territories. The most important and prestigious of these institutions was Bir Zeit University in the West Bank city of Ramallah; its history dates back to 1924 in Bir Zeit Village, when the Nasser family established it as a preparatory school. Gradually the university developed to offer a two-year diploma, and in 1973 was granted a licence by the occupation to operate a four-year study programme.

Along with Bir Zeit, there is El Najah University in Nablus and the University of Bethlehem in Bethlehem. While the former started as college in 1968 and was granted the licence to operate four-year programme in 1975, the later was established by the group Brothers of Christian Schools and was permitted to operate a four-year programme in 1973. Other Universities and higher academic institutions were established around the same period, such as the Islamic University in the Gaza Strip and the University of Hebron in Hebron. These universities and institutions attracted a considerable number of Palestinians who had passed the Tawjihi.<sup>172</sup> In 1979-80, for instance, no less than 4,586 Palestinians were enrolled in the universities and other higher academic institutions.<sup>173</sup>

Most of the students who attended university came from the peasant and refugee populations which had born the brunt of the occupation; many of their fathers and mothers had been uprooted from their original villages by the 1948 or 1967 wars. Over the course of their lives, these students had been subjected to what Rosemary Sayigh calls "a process of re-creating Palestine through memory".<sup>174</sup> This process, in which fathers and mothers play a crucial role, sought passed on to these students the home that was their heritage. When they arrived at university therefore, these students

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<sup>172</sup> For more details of these universities see Adam Roberts, Boel Joergensen, & Frank Newman. *Academic Freedom Under Israeli Military Occupation*. London & Geneva: World University Service & International Commission of Jurists, 1984, Pp. 38-51.

<sup>173</sup> Shamgar (ed.), op.cit., P.447.

<sup>174</sup> Rosemary Sayigh. *Palestinians: From Peasants to Revolutionaries*. London: Zed Press, 1979, P.11.

were not only looking for education, they also sought the “Palestine” they knew through their fathers and mothers.

In this sense, student bodies were seen as “good soil” for political recruitment to various PLO factions like Fatah, PFLP, DFLP and the Communist Party. As Glenn E. Robinson observed, the various PLO factions succeeded, through these students, in establishing political footholds in each university and higher academic institution. According to Robinson, the pro-PLO Palestinian prisoners who were released from Israel’s jails in 1970s took leading roles in recruiting these students.<sup>175</sup>

In each university, thus, one could find a student bloc associated with one or another PLO faction. The *Al Shabiba* student movement emerged as the biggest and most influential student movement, and was associated with Fatah. Several Palestinian leaders who would eventually play influential roles in the post-Oslo scene (Marwan El Bargouthi for example) were also affiliated with *Al Shabiba* movement. Alongside *Al Shabiba*, the Progressive Student Labour Front was associated with the PFLP, the Student Unity group was associated with the DFLP, and the Progressive Student Union was associated with the Communist party.

All of these blocs engaged in stiff competition, with each trying to recruit more students to that PLO faction with which it was associated. Over time, the influence of these blocs extended outside the University campuses and into the Palestinian villages and streets. Each bloc succeeded at developing its own Voluntary Work Programme, through which students involved with the bloc devoted some days to helping villagers reclaim their uncultivated land by planting trees and repairing roads, sewage lines, water pipes and so on. This programme, inaugurated by Bir Zeit’s students in the 1970s, was developed to include voluntary work committees in each camp, village, town and city. All committees were associated with main PLO factions. Through these committees, therefore, the PLO succeeded at strengthening its ties to the wider Palestinian community, and thus at enlisting these people in its cause.<sup>176</sup>

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<sup>175</sup> Glenn E. Robinson. *Building a Palestinian State. The Incomplete Revolution*. Bloomington & Indianapolis: Indian University Press, 1997, Pp.21-27.

<sup>176</sup> Ibid., Pp.28-31.

Related to this development were the social changes Palestinians had undergone since 1967. Though these changes were the outcome of numerous variables (e.g., Israel's settlement policy, the remittances of Palestinians employed in Gulf countries in the 1970s); the influence and interaction of these variables are difficult to isolate, but there is some indication that economic policy during the occupation, in particular the policy of full employment, had a huge impact on Palestinian social structure (largely in the rural areas in which 70% of the population lived).<sup>177</sup>

Traditionally, in the rural areas the family functioned as the main productive unit. Most family members (including females) were involved in agricultural activities on their own or *ayan's* farms. These farms constituted the main source of a rural family's livelihood. The social equivalent of this economic infrastructure was a social structure in which the extended family (*hamula*) functioned as the basic social unit, and authority rested in the head of the *hamula* (which was the patriarch). These were the general social circumstances up to 1967, when the occupation introduced the aforementioned policy of full employment.

With the introduction of a full-employment policy, many peasants (or members of the rural family) preferred to benefit from the high-scale wages of Israel's labour market and so left their farms to pursue work opportunities in Israel. If Tamari's figures are accurate, the percentage of the West Bank labour force employed in agriculture in 1976 did not exceed 26.1%, in comparison to 50% in 1969.<sup>178</sup> This factor (the migration of rural family members into Israel to pursue other work opportunities) "has hastened the process of the break up and nuclearization, in part because younger bread-winners in the family established a source of earning independent from their fathers".<sup>179</sup> This implied the withdrawal of collective identification (though not its absence) in favour of an individualistic perspective and, accordingly, the decline of the role of *hamula* and that mode of patriarchal authority associated with it.<sup>180</sup>

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<sup>177</sup> Brown, op.cit., Pp.227-228.

<sup>178</sup> Salim Tamari. "Building Other People's Homes: The Palestinian Peasant's Household and Work in Israel". In *Journal of Palestine Studies*. Vol. XI, No.1 (Autumn 1981). Pp.36-37.

<sup>179</sup> Ibid., P.38.

<sup>180</sup> Ibid., Pp.38-60.

At the same time, employment within Israel promoted economic prosperity among villagers by enabling them to send their sons to universities and the other Palestinian institutions of higher education that had been established in the 1970s. Villagers' access to education further weakened their *hamula* identification, instead paving the way for a new social identification that was associated with various PLO factions. Moreover, the migration of so many peasants into Israel created a new situation in which land ceased to be the sole livelihood of rural families; consequently the correspondence between land and economic power was reduced. This reduction of land as a major source of the economic power implied the collapse of the *ayan* economic base, and thus implied the collapse of their political power as well.<sup>181</sup>

The socio-economic developments experienced by Palestinian villages after 1967 might be best represented by the situations in the Palestinian refugee camps and towns; all of these camps and towns supplied labour forces to Israeli labour markets. In 1973, for instance, the West Bank supplied 66.6% of its labour force to the Israeli labour market, while the Gaza Strip supplied 65.7% of its labour forces to the same market.<sup>182</sup> Providing these statistics, it becomes possible to sum up those socio-economic developments experienced by Palestinians after 1967 as the following:

- Access to Education  $\xrightarrow{+}$  Social Mobility  $\xrightarrow{+}$  Political Mobilization
- Access to Israeli Labour Market  $\xrightarrow{-}$  the Role of *Hamula*  $\xrightarrow{-}$  Collective Identification  $\xrightarrow{+}$  National Identification.
- Access to Israeli Labour Market  $\xrightarrow{-}$  the Role of Land as a Source of livelihood  $\xrightarrow{-}$  The Economic Base of the *Ayan*  $\xrightarrow{-}$  *Ayan* Political Power

All of these developments favored the PLO in its competition with pro-Hashemite elements in the occupied territories. Furthermore, in addition to localised changes, regional political developments also favored the PLO. The most important of these developments was the war of 1973. That war, which erupted on the 6<sup>th</sup> of October, was the first by which the Arabs achieved some limited victory over Israel<sup>183</sup> and it

<sup>181</sup> Chapter 5 (Pp. 185-211) in Migdal (ed.), *Palestinian Society*, op.cit.

<sup>182</sup> Brian Van Arkadie. *Benefits and Burdens: A Report on the West Bank and Gaza Strip Economies since 1967*. New York, Washington, D.C.: Carnegie Endowment for International Peace, 1977, P.71.

<sup>183</sup> For more information regarding this war see Galia Golan. *Yom Kippur and After: The Soviet Union and Middle East Crisis*. Cambridge: Cambridge University Press, 1977.



paved the way for two related shifts: first it weakened the myth of the “invincible army” of Israel and so prompted a strong Palestinian nationalism, and secondly it weakened the status and prestige of the Hashemite regime (specifically, in the eyes of Palestinians) when the that regime failed to contribute to the war.

These developments promoted anti-Hashemite sentiment in the territories, and strongly recommended the nationalists associated with the PLO as an alternative to the pro-Hashemites. New points of reference and feelings of political allegiance were developed, and were institutionally expressed in the Palestinian National Front (PNF) that emerged in the early 1970s to embrace all anti-Hashemite nationalists.<sup>184</sup> The PNF, which adopted a political programme that intended to establish a Palestinian State in the West Bank and in the Gaza Strip, was formally recognized by the PLO and assigned seats in the Palestinian National Council (the Palestinian assembly in exile) in 1973. Its political programme paralleled the PLO’s “ten-point programme”, which was adopted during the twelfth Palestinian National Council meeting that took place in June of 1974; the programme sought to establish Palestinian Authority on any part of Palestine.<sup>185</sup>

### **The 1976 Municipal Elections: PLO Factions Rise to Office**

The previous discussion demonstrated how the Israeli policy of non-intervention, coupled with the socio-economic transformation experienced by Palestinians since 1967, promoted political mobilization and hence a new, more radical and younger leadership. This leadership, institutionally expressed in the PNF, adopted a political programme that sought to establish statehood for the West Bank and the Gaza Strip. The program paralleled the PLO’s “ten-point programme”, as mentioned above.

This political shared by the exiled PLO and their internal supporters (the PNF), along with the intensely national mood that characterized the territories at this time, gave the traditional *ayan* elite and their pro-Hashemite programme little chance to make a

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<sup>184</sup> Lesch, op.cit., Pp.51-58.

<sup>185</sup> For more information about this programme see Y. Harkabi, *The Palestinian Covenant and its Meaning*, Valentine Mitchell & CO. LTD (1979) p. 147-148 and for the most recent discussion of the programme see Muhammad Muslih's “A Study of PLO Peace Initiatives, 1974-1988.” In Avraham Sela & Moshe Ma’oz (eds.) *The PLO and Israel: From Armed Conflict to Political Solution: 1964-1994*. New York: St. Martin’s Press, 1997.

mark in the municipal elections of April 1976. These elections were conducted just two years after the UN General Assembly and the Arab states' endorsement of the PLO's claim to be the sole representative of Palestinians. This complicated timing and the growing national support for the PLO make Israel's decision to hold these elections a perplexing one.

However, it seems probable that Israel would have sought to counter the PLO's regional and international political victories with an attempt to reinvigorate the power of the pro-Hashemite factions within the territories (thus undermining the PLO's local power). This analysis, if true, reveals Israel's failed estimation of the socio-economic developments in the OPT since 1967. More importantly, it also implies Israel's failure to gauge the political ramifications of these developments, including the growing number of nationalists associated with the PLO. Whatever the considerations and motivations behind Israel's decision to call these elections, post-elections events proved that decision to be a big mistake.

When the elections were conducted, they were held according to new regulations. Unlike the 1972 elections, which restricted the vote to older males (of 21 or more years), Israel extended the vote to females and young males without property. Israel's extension of the voter prompted opposition from the Hashemite regime, which considered the change a grave violation of international law, in particular the Forth Geneva Convention obliging occupying powers to preserve the *status quo* of their occupied territories. Unlike the Hashemite regime, the PLO supported this extension of the vote and urged its supporters (members of the PNF and other nationalists) to take part in the elections when it became clear that those elections would put PLO supporters in office.<sup>186</sup>

It seems unlikely that the Hashemite regime's opposition to Israel's extension of the vote actually issued from concerns regarding Israel's failure to carry out the obligations assigned in the Forth Geneva Convention. The main reason for the Hashemite opposition, rather, was likely an awareness of its own weakened support and the growing popularity of the PLO (among young people in particular). In light of

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<sup>186</sup> Sahliyah, op.cit., Pp. 63-65.

the contemporary situation, Israel's extension of the vote undeniably favoured the PLO. Supporting this analysis, there was also the fact that — once it became aware of Israel's determination to hold the 1972 elections, and noted the determination of the PLO's supporters to run in these elections — the Hashemite regime strongly urged its supporters to participate in the elections despite the new regulations.

Both sides, PLO supporters and pro-Hashemites, were thus motivated by political considerations in running for election. This fact can be inferred from the following figures comparing the 1976 elections with the 1972 elections in terms of the number of eligible voters, those people who actually voted for candidates, and the municipal seats:

The number	1976	1972
Eligible Voters	88,467 (appro. 33,000 W.)	32,000
Actually Voted	62,998 (appro., 21,000 W)	26,000
Candidates	577 (4 W.)	337
Municipal Seats	205	182
Municipalities	22	22

Source: Ma'oz. *Palestinian Leadership*, op.cit., P.136 & Sahliyah, op.cit., P.66.

The results of the 1972 elections further demonstrate the politicization of the municipalities. Among the 205 elected councillors, there were 153 (75%) new faces, which included 14 of the 24 mayors. 40% of the new councillors and 33% of the new mayors were pro-PLO or leftist nationalists. Moreover, the new elected councillors and mayors were younger (67% were under the age of 50, and 10% were under the age of 30), and better educated (53% had higher education). In addition, 40% were white collar, 40% were traders and businessmen, and 20% were farmers and landowners.<sup>187</sup> The nationalist orientation of these councillors and mayors did not correspond with the new sociological orientation. In other words, as noted by Sahliyah, these mayors and councilors “came from the same well-to-do and socially prominent families in their towns that they had always provided leadership”, notwithstanding their pro-PLO and leftist political orientation.<sup>188</sup>

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\* W: denotes Women.

<sup>187</sup> Ma'oz. *Palestinian Leadership*, op.cit., P.136-137 & Sahliyah, op.cit., Pp.66-67.

<sup>188</sup> Sahliyah, op.cit., P.67.

This was particularly clear in regards to the new mayors. In Nablus, for instance, Hajj Ma'zuz al-Masri, was replaced by the nationalist Bassam al-Shak'a (derived from a big family in Nablus). In Hebron, Sheikh Muhammad al Jabari, who had dominated the mayoralty since 1948, was replaced by the nationalist Fahd al-Qawasma. Similarly, the following nationalists replaced pro-Hashemite mayors in a number of towns and cities: Hlimi Hanun, Ibrahim al-Tawil, Muhammad Halhul, Abd-Aziz al-Suwwayti, Ziyadah Ya'kup, Amin Nasser and Bishara Dawud. All of these mayors were affiliated with the PLO and other leftist parties, but at the same time they either derived from big families or had undergone higher education; this statement excludes the re-elected mayor of Bethlehem Elias Freij, who was among the old guard and had a pro-Hashemite orientation.<sup>189</sup>

In this sense, the 1976 elections brought about no significant change in terms of the sociological orientation of the Palestinian mayors and councillors. Due to this, Israel received the results of the elections with little concern, and ruled them out as any indicator of "a deep transformation" or "radical change in the social structure and political orientation of the West Bank leadership".<sup>190</sup> Jordan in fact had a similar view of the results, and accordingly welcomed them and even offered financial and logistical support to the new mayors.<sup>191</sup> The PLO, mainly Fatah, considered the election results encouraging since they brought young nationalist *ayan* into the office and therefore supported the results of the elections, even forging an alliance with the newly emerged nationalist *ayan*.<sup>192</sup>

Therefore, all the major players (Israel, the PLO and Jordan) perceived the election results as satisfactory, and no exhibited an interest in changing the status quo. For instance, in accordance with its policy of co-existence, Israel still sought to cultivate the newly elected mayors as an alternative to PLO leadership. Jordan, on the other hand, believed the socio-economic background of these mayors would prevent them from adopting an anti-Hashemite policy. Meanwhile, the PLO considered these mayors part of its political army in the territories thanks to their pro-PLO policy and nationalist ideology. This was the situation until May 1977, when the Likud party

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<sup>189</sup> Ma'oz. *Palestinian Leadership*, op.cit., Pp.137-138.

<sup>190</sup> Ibid, P.151.

<sup>191</sup> Ibid, Pp.143-144.

<sup>192</sup> Robinson, op.cit., Pp.13-14.

assumed power. Under the Likud government, Israel's policy toward the nationalist mayors turned radical, sparking new developments for Palestinian autonomy.

### **Palestinian Local Autonomy under the Likud Government: Toward a Bottom-Up Model**

While the Labour government (1968-1977) pursued a policy of co-existence with Palestinians, and thereby enabled the nationalist mayors to run for office in hopes of cultivating them as an alternative to PLO leadership, the radical national orientation of the Likud government prompted it to consider all Palestinians, including the mayors, as potential enemies.

The Likud government denied the nationalist mayors any powers and authorities to manage civil affairs. It took over water sources in the territories and denied the municipalities any practical power in fields like that of water management. Instead, these powers were put in the control of the Israeli Water Company *Mekorot* in a way that limited the municipalities' role to collecting water bills from residents and administering the daily distribution of water.<sup>193</sup>

In a similar fashion, the Likud government denied the municipalities any powers to manage electricity. All municipalities were asked to obtain permission from the military administration before initiating any electricity-related project. This permission was rarely granted, most requests being rejected. Due to this increased Israeli control, many municipalities were unable to meet local demands for electricity and were forced to link to Israel's national power grid.

In 1980 the military administration refused to grant the municipality of Jenin a permission to import new units for the generation of electricity to allow it to meet an increasing demand. Owing to this refusal, the municipality agreed to link to the Israeli national grid.<sup>194</sup> By connecting the Palestinian towns and cities to Israel's national grid, the Likud government left only the tasks of collecting electricity bills and administering daily supplies of electricity to the municipalities.

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<sup>193</sup> Abu-Eisheh, op.cit., Pp.18-20.

<sup>194</sup> Ibid., 36.

These measures were inspired by Likud's belief the nationalist mayors posed a threat to Israel's national security and sought to weaken the ability of these mayors to handle civil affairs (and so undermine their influence on the local community). At the same time as enacting these measures, the Likud government also initiated secret talks with pro-Hashemite elements that aimed to enlist those elements to support a proposed plan for Palestinian autonomy that would allow for only some self-rule arrangements in the territories.<sup>195</sup> The plan, the general framework for which was provided for by the Camp David treaty,<sup>196</sup> constituted a further attempt by Israel to unilaterally decide who should lead Palestinians, as well as the forms of their autonomous institutions.

This attempt provoked wide-scale Palestinian opposition,<sup>197</sup> and transferred the disagreement into an almost a "zero-sum" conflict. In the face of Palestinian opposition to the Camp David scheme, the Likud government adopted harsh measures against nationalist mayors who actively participated in opposition activities. On 2 May 1979, the military administration deported the mayors of Hebron and Halhul. The following month Israel launched an assassination attempt against three leading mayors in the West Bank, leaving the mayors of Nablus and Ramallah (Bassam El Shaka and Karim Khalif, respectively) maimed. Further measures were taken against

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<sup>195</sup> See Moshe Dayan. *Break-Through. A personal Account of the Egypt-Israel Peace Negotiations*. London: Weidenfeld & Nicolson: 1981, Pp.150-152.

<sup>196</sup> The treaty, which was concluded between Israel and Egypt in September 1978, lay down the main principles for future relations between the two countries. However, it included a separate clause which dealt with the West Bank and the Gaza Strip. According to this clause, a self-rule scheme was proposed for Palestinians in the West Bank (but not those in East Jerusalem) and the Gaza Strip. The scheme included a five-year transitional period with elected administrative council. 'As soon as possible, but no later than the beginning of the third year of the transitional period, negotiations were said to be commenced between Israel, Egypt, Jordan, and the administrative council's representatives, to determine the final status of West Bank and Gaza Strip. See Appendix I (Pp..321-324) in *Ibid.*,

<sup>197</sup> In reaction to the Camp David treaty, many demonstrations took place in the occupied territories. These demonstrations were steered by the National Guidance Committee (NGC). The NGC was set up to organize opposition activities related to the Camp-David treaty. It embraced the nationalist mayors and representatives of national institutions like professional associations, labour unions, and so on. In fact, these institutions took the leading role in protesting the Camp David treaty. On 24 September, for example, the Jerusalem union of professional associations issued a declaration against Camp David. Around the same time, a petition undersigned by 121 public figures (half of them mayors and municipal councillors) declared their opposition to Camp David. On 1 October a popular conference in Beit Hanina, near Jerusalem, adopted resolutions against Camp David. On 3 October a petition signed by West Bank students declared their opposition to Camp David. See Emile A. Nakhleh. "Israeli Occupation and Self-Rule in the Territories: the Inhabitants' Perspective". In Daniel J. Elazar (ed). *Governing Peoples and Territories*. Philadelphia: Institute for the Study of Human Issues, 1982, Pp.188-191. The Gaza Strip echoed the responses in the West Bank when a popular assembly was convened in October 1978 and also adopted resolutions against Camp David. See Mark Tessler & Ann Mosely Lesch. "Israel's Drive into the West Bank and Gaza". In Ann Mosely Lesch & Mark Tessler. *Israel, Egypt, and the Palestinians*, op.cit., P.233.

these mayors, including restrictions placed on their movement outside the country, reduction of their rights to engage in political activities, and so forth.<sup>198</sup>

In response to these measures, Palestinians broke with the formal state institutions (the municipalities), and instead performed para-state functions via their own informal institutions. In doing this, Palestinians were supported by Arab states which had decided, in a summit convened in Baghdad in November 1978, to allocate hundreds of millions of USD in support of the *Sumud* (steadfastness) of Palestinians in the territories. A joint Jordanian-Palestinian committee was also set up to facilitate communication between Arab states and the territories.<sup>199</sup> In the period of 1979-1985, this committee distributed about 400 million USD to the territories.<sup>200</sup> This fund was of crucial importance to Palestinians at this critical juncture in their conflict with Israel; through it, Palestinians were able to disengage from occupation control and proceeded to build grassroots organizations.

These organizations, which offered health, social, economic and legal services, constituted institutional manifestations of the Palestinian disengagement, and they were all accordingly affiliated with main factions of the PLO and employed voluntarism as the main principle of their daily operation. In 1979 the Union of the Palestinian Medical Relief Committees (UPMRC) was established in the West Bank to offer health services to uncovered villages and camps in the West Bank and in the Gaza Strip. A few years later the Union of Health Work Committees (UHCW), the Union of Health Care Committees (UHCC) and the Health Services Council (HSC) were also founded for the same purposes.<sup>201</sup> In 1992, one year prior to the signing of the Oslo accords, these organizations operated some 132 clinics in 118 communities, and served nearly half of the territories' population.<sup>202</sup>

Other grassroots organizations were founded during the same period that offered economic service; an example of this is the Agricultural Relief Committees (ARC),

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<sup>198</sup> Emile Sahliyah. "The West Bank Pragmatic Elite: The Uncertain Future". In *Journal of Palestine Studies*. Vol.xv.No.4 (summer 1986), P.35.

<sup>199</sup> Yezid Sayigh. *Armed Struggle and the Search for State*. Oxford: Oxford University Press, 1997, P.437.

<sup>200</sup> Robinson, op.cit., P.53.

<sup>201</sup> Ibid, Pp.39-49.

<sup>202</sup> Ibid., P.49.

which offered various materials, technical and logistic services to farmers.<sup>203</sup> Furthermore, some 23 charitable organizations were founded in the territories to offer similar services.<sup>204</sup> The most prominent of these charitable organizations was *Jam'iyat In'ash el-Usra* (the Society for Family Rehabilitation), which operated vocational centres, offered partial and full university scholarships, provided health services and ran cultural projects (e.g., kindergartens, Palestinian folklore centres, et cetera).<sup>205</sup>

Most of these grassroots and charitable organizations, depended on the funding distributed by the joint committee and a number of international and Palestinian benefactors who offered their services without charges (or with minimum charges). They mainly recruited their members from the middle class and intellectual circles, and included women. The changes indicate early steps toward expanding the social base of those people who carried out state and Para-state functions. Even though the 1976 elections brought a new political orientation and ideology into office, they failed to achieve a new social orientation. In other words, those who rose to office — despite their nationalist orientation and pro-PLO ideology — still issued from the upper class.

When Palestinians decided to break with formal state institutions and began to establish their own, the input they provided these institutions with was sociologically different and yet still politically similar to that given the 1976 municipal councils. Those people who dominated and operated the new grassroots and charitable organizations embraced the same national ideologies of the people who achieved office in the 1976 elections, but they came from an altogether different social class. So with the grass roots organisations we see an extension of the *social* base of those who were practising state/Para-state functions. It is therefore safe to claim that from 1979 onwards a new social class, a middle class, joined the *ayan* in carrying out state and para-state functions.

A question remains to be asked: did the Likud government tolerate this development, or did it take some measures to abrogate it? The Palestinian response to Likud measures against the municipalities manifested in institutions, as we have seen; the

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<sup>203</sup> Ibid, Pp.53-55.

<sup>204</sup> See *Social, Economic and Political Institutions in the West Bank and the Gaza Strip*. New York: United Nations, 1982, P.6.

<sup>205</sup> Ibid, Pp.8-9.



Likud government's response to this development was institutional as well. In November 1981, the government issued its military order no. 947 and declared a civil administration was to be established in the territories. Section 2 of the order states that the civil administration was established to “administer the civilian affairs in the region in accordance with the directives of this order, for the well-being...of the population, and in order to supply and implement the public services and taking into consideration the need to maintain an orderly administration and public order in the region”.<sup>206</sup>

The head of the civil administration was to be appointed by the area commander, considered the ultimate authority. However, the head of the civil administration was empowered with the rights to issue second-hand legislations (or secondary legislations) in civil domains, and to appoint officials in the civil administration whose purpose was to execute these laws. Nevertheless, all issues related to security remained under the control of the area commander, who enjoyed absolute (over the civil administration as well).

In other words, all the powers and authorities exercised by the head of the civil administration were delegated to him by the area commander, and were exercised in that area on the area commander's behalf. Ultimate authority was thus vested in the area commander, and the civil administration functioned as an executive body only, in spite of its right to issue secondary legislation in civil domains. In January 1982, military order no. 947 was issued to emphasize this fact. The order reads: “in order to remove any doubt, there is nothing in the provisions of the Order (Order No. 947) which restricts or abrogates any of the privileges or rights vested in the Commander of the Israeli army in the area or in any of those appointed by him”.<sup>207</sup> The area commander thus retained all the powers he assumed through order no. 2 of June 1967 (for more regarding this order see P. 74), including the power to issue first-legislations.

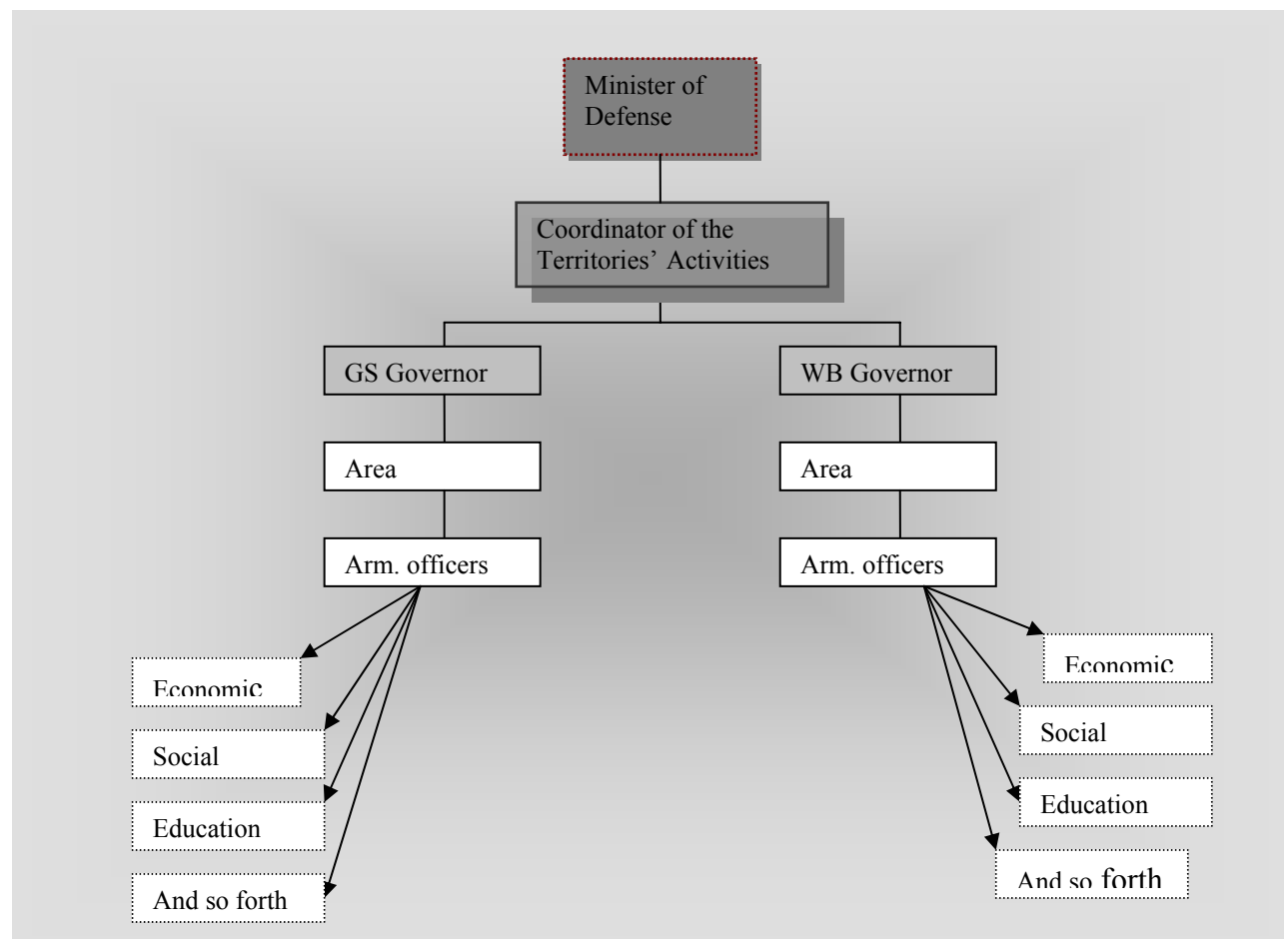
If the new order kept all powers in the hands of the area commander, then what exactly changed in terms of the administrative setup of the territories? To understand

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<sup>206</sup> Quoted in Raja Shehadeh. *Occupier's Law: Israel and the West Bank*. Washington, D.C.: Institute for Palestine Studies, 1985, P.70.

<sup>207</sup> Quoted in Ibid, P.71.

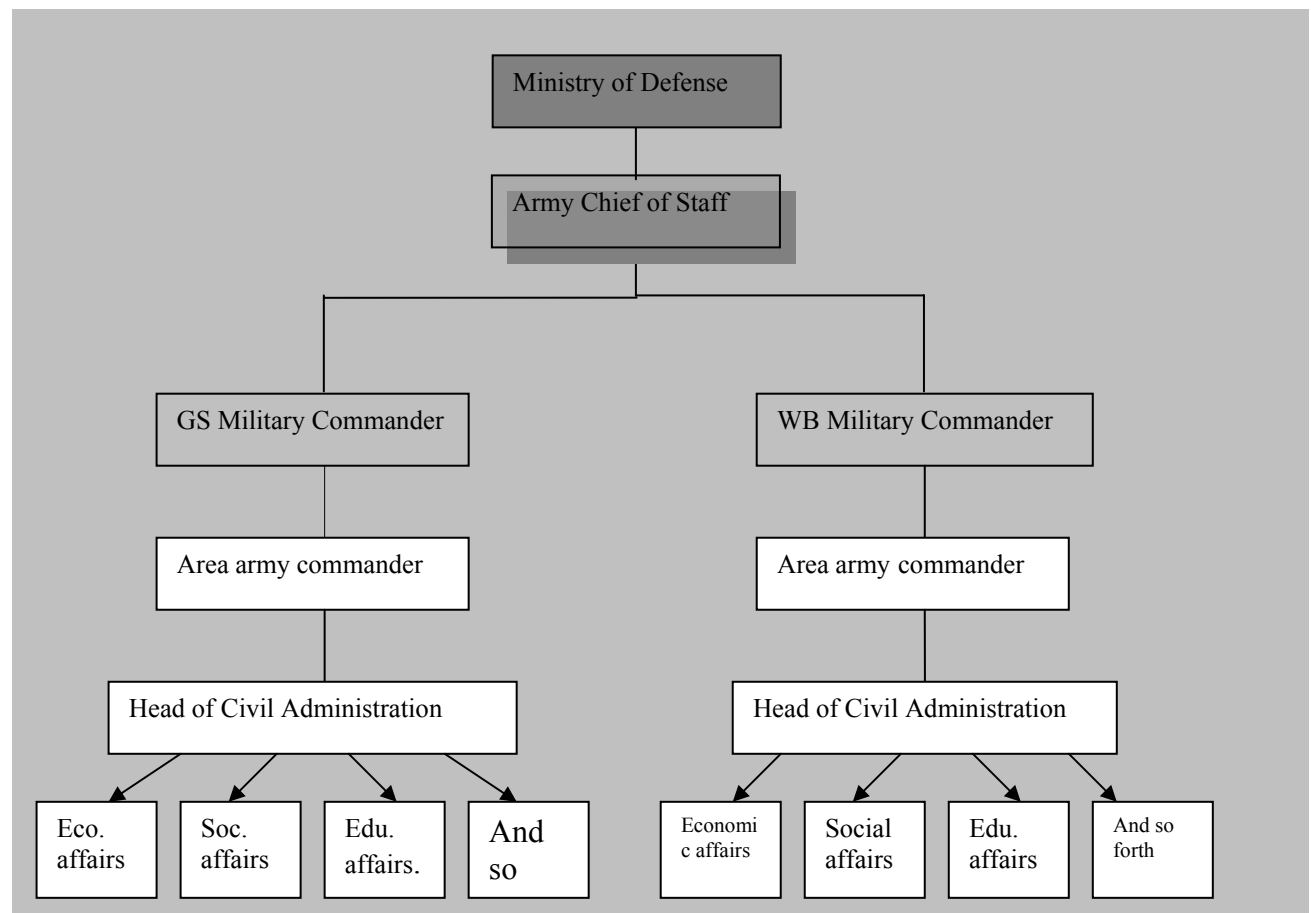
whether essential changes took place or not, the below figure showing how the military administration operated prior to 1981, might be helpful.



Source: developed from Shehadeh, op.cit., Pp. 68-69 & Meron Benvenisti. *The West Bank Data Project. A Survey of Israel's Policies*. Washington & London: American Enterprise for Public Policy Research, 1984, P.45.

The area (local) governor was asked to perform two tasks. The first was civil; in this regard, as the figure illustrates, he presided over a number of army officers who ran for a number of civil offices in each area or district. In doing this he was subordinate to the West Bank/Gaza Strip governor, whose own main task was a civil one and who was himself subordinate to the Coordinator of the Territories' Activities (who worked under the direct supervision of the Minister of Defense). The other task a local governor had to perform was: to keep order in his district or area. In this capacity he was subordinate to the army Commander assigned to the area, and through the Commander also subordinate to the Chief of Staff (who was also under the direct control of the Minister of Defense).

With the introduction of the civil administration, two developments occurred: the Chief of Staff assumed the functions of the Coordinators of the Territories' Activities, and thus integrated the civilian tasks with the military ones. This implied that army Commander assigned to an area assumed the functions of that area's governor. However army officers were denied the right to run civil offices, and only civilians assumed posts in the civil administration. The below figure illustrates this shift:



Source: Benvenisti, op.cit., Pp. 45-46.

What happened was therefore a *revolution* to change Dayan's policy of non-intervention. In other words, while the Labour government sought a minimal armed intervention in civil domains, and thus left Palestinians to run their own civil affair, the Likud government sought direct armed control over these civil domains and entrusted itself with the right to run Palestinian civil affairs. However, this shift was not accompanied by any fundamental changes in the source of legislation. Both governments retained the area commander as the final source of legislation.

The Likud government's policy of directly controlling Palestinian civil affairs stemmed from its concern regarding the (in its opinion) harmful ramifications of Dayan's policy of non-intervention, these having enabled PLO factions to take office. Prof/Colonel Menachem Milson, the first civil administer of the territories, summarized the Likud's position towards the PLO's status in the territories when he pointed out: "combating the PLO in the territories had been perceived by the Israeli policy-makers as a military and security matter...while the PLO attach a special *political* importance to its quest for influence in the territories....{its success} facilitated the mobilization of people for terrorist acts." Therefore, "a political infrastructure opposed to the PLO and ready to cooperate with Israel"<sup>208</sup> should be created.

It is against this background that the creation of the civil administration must be examined. The civil administration was in fact that very political apparatus through which the Likud government sought to minimize the PLO's influence in the territories by franchising some of the civil administration's powers to those who were ready to cooperate; consequently, it sparked the creation of counter-institutions for the pro-PLO municipal offices, as well as the development of Palestinian grassroots and charitable organizations. At that time, the village league was the only institution that had been qualified to assume this role (of counter-institution and host for pro-PLO municipal offices and grassroots organizations).

The league, created by Mustafa Dudin in the Hebron district in 1978, was designed as an institutional protest against the hegemony of the urban-based, pro-PLO groups in regards to state institutions (eg, formal institutions like municipalities, and informal institutions like grassroots organisations). Among its main objectives was "the encouragement of rural cooperatives and social and charitable societies which will work for the benefit of all villagers".<sup>209</sup>

The Likud government found in this league a proper institution through which its goal of eradicating the PLO's social base in Palestinian towns might be realized. So the

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<sup>208</sup> Quoted in Benvenisti, op.cit., P.46.

<sup>209</sup> Salim Tamari. "Israel's Search for a Native Pillar: The Village League". In Aruri (ed.). *Occupation*, op.cit., P.378.

new established civil administration started supporting the creation of village leagues in various rural areas, and franchising them with some of its own powers. These powers ranged from the provision of family reunion permits to issuing building permits, permits for the acquisition of driving licenses, and travel permits.<sup>210</sup> The civil administration even went further and allocated sums of money to these leagues which enabled them to carry out water and electricity schemes in their local areas.

These measures did not, however, ensure wide constituencies of support for the village leagues. Two factors were to blame for this: firstly the attachment of these leagues to a given family or clan alienated them from most of Palestinians (who emphasized national identification at the expense of family or clan affinities), and secondly Likud designed radical measures against Palestinians that, among other things, confiscated land in the villages.<sup>211</sup> The failure of these leagues to halt the latter measures weakened their credibility among Palestinians and forced some of them to distance themselves from Israel's policy and to adopt a more nationalist position. This distancing brought the leagues into conflict with Likud policy, and thus prompted their dissolution by the Likud government in summer of 1983.

Regardless of the failure of the village leagues and the political considerations surrounding their creation, these leagues still enabled other stratum in the society to practice state functions. Despite the fact that the head of each league was still constituted by a family/clan chief, the leagues embraced villagers with peasant backgrounds<sup>212</sup> and thus — whatever their political goals and ideologies — they enabled peasants to join the *ayan* and middle class elements in carrying out state/para-state functions. Though this development was short-lived, it signified a new expansion of the social base to include those people who practiced state and para-state functions; previously the only social stratum that had been denied the right to do so were refugees, who remained far outside any government institution (formal and informal alike), notwithstanding their active contribution to Palestinian resistance to the

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<sup>210</sup> Ibid, P.382.

<sup>211</sup> See Ibid, Pp.382-385 & Ann Mosel Lesch & Mark Tessler. "The West Bank and Gaza: Political and Ideological Responses to Occupation". In Lesch & Tessler. *Israel, Egypt, and the Palestinians*, op.cit., Pp.265-266.

<sup>212</sup> Salim Tamari, "Israel's Search for a Native Pillar: The Village League". In Aruri (ed.). *Occupation*, op.cit., Pp.285-288.

occupation as manifested in the Gaza-based armed movement of 1970 (for further information see Pp. 78-79 and footnote 161).

The situation of exiled refugees, or rather refugees settled in surrounding Arab countries, in particular in Lebanon, was slightly different. In Lebanon, the PLO succeeded at establishing down some para-state institutions, and consequently enabled the exiled refugees there to practice para-state functions. In 1969, for example, the Sons of the Palestinian Martyrs Institute (*Samad*), was founded, begun as an orphan-aid project and gradually expanding to include large factories for textiles, carpentry and so forth.

This institute, which established permanent venues in various Arab countries and developed networks of relations with some Western countries like Italy, France and Norway, employed thousands of Palestinian refugees.<sup>213</sup> Alongside it there was also the Palestine Red Crescent Society (PRCS), which was headed by Arafat's Brother Fathi Arafat. The PRCS ran various medical facilities in Palestinian refugee camps and by 1979 had been operating 30 hospitals and 100 clinics.<sup>214</sup>

Coupled with these foreign developments was another which related to the PLO para-state security forces that emerged in 1979. Said forces, through which the PLO's various guerrillas were organized, were promoted by the resolution of the 1978 Arab Summit which, as mentioned above, donated hundreds of millions of USD to the PLO. A considerable part of this fund was invested in transforming the guerrillas into proper para-state armed forces. Consequently, various regular forces like *Ain Jalut*, *Qastal*, *Yarmuk*, *Karamah*, *Unit of 17* (Arafat's bodyguards), the Political Security Forces, and the Chairman Security Agency (to name the most important), were formed.<sup>215</sup>

Most of these armed forces enjoyed permanent bases and were led by officers with conventional military training. Their members were recruited mainly from Palestinian refugees in Lebanon, and elsewhere. One of the forces' top priorities was to defend

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<sup>213</sup> *Social, Economic and Political Institutions in the West Bank and the Gaza Strip*. New York: United Nations, 1982, Pp.21-22.

<sup>214</sup> *Ibid.*, P.22.

<sup>215</sup> Sayigh. *Armed Struggle*, op.cit., Pp.447-454.

Palestinian refugee camps in Lebanon. Though the PLO as an organization lacked the formal authority to issue and implement binding rules for refugees, and thus in Joel S. Migdal's point of view lacked a defining feature of statehood,<sup>216</sup> most of the refugees were inspired by a national commitment to obey the PLO's instructions and so could ultimately be coerced by its armed forces.

In this sense, it is possible to assume that those refugees who had access to PLO armed forces assumed para-state functions as well. Was this assumption accepted, the exiled refugees can then be understood as having practiced para-state functions in parallel to their *ayan* and middle class counterparts inside the territories. Similarly to the fate of the village leagues, however, this development was to be short-lived. The Lebanese war of June 1982<sup>217</sup> and following dispersion of the PLO para-state forces throughout the Arab world ended that particular opportunity for the refugees to engage in para-state activities; the war, coupled with the necessary shift of the PLO headquarters from Lebanon to Tunisia, ended a phase in which the refugees had access to the forces that afforded them this opportunity. Moreover, the war signified an escalation in Likud's radical treatment of autonomous Palestinian institutions inside the territories.

This escalation can be traced through the civil administration's June 1982 decision to replace five elected municipal councils with loyal appointed committees,<sup>218</sup> and the following measures adopted against Palestinian universities (including closures, the detention of students, shootings and consequent killings of students, and the deportation of college staff members). In the period between 4 November 1981 and 2 April 1984 Bir Zeit University was closed five times for a total of eleven months. In 1983 Al-Najah University was closed three times for a total of five months, and Bethlehem University was closed twice for a total of one and a half month.<sup>219</sup> In the

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<sup>216</sup> Migdal. *Strong Societies*, op.cit., P.19.

<sup>217</sup> For more information regarding this war see Jonathan Randal. *The Tragedy of Lebanon: Christian Warlords, Israeli Adventurers and American Bunglers*. London: The Hogarth Press, 1983 & Ze'ev Schiff & Ehud Ya'ari. *Israel's Lebanon War*. New York: Simon & Schuster, 1984.

<sup>218</sup> Shehadeh, op.cit., P.182.

<sup>219</sup> Ibid., Pp.162-163.

period lasting from December 1986 to April 1987, three students from Bir Zeit University were shot and killed.<sup>220</sup>

Similarly brutal measures against college staff were taken. In the fall of 1982 the civil administration required non-resident Palestinian college members (those who did not hold military-issued identity cards) to sign an anti-PLO pledge in order to obtain residence and work permits. When these members refused to sign the pledge, the civil administration deported them. Approximately 100 of the 500 college staff who worked in Palestinian universities were affected by this measure.<sup>221</sup>

In addition to the above, the civil administration granted itself the right to annually license Palestinian universities, as well as the right to control the creation of additional departments, programs and colleges. No university was allowed to operate new departments, programs or colleges without permission granted by civil administration; in most cases, such permission was denied. Two requests to operate a college of agriculture and a hotel management program were made by the Al-Najah University and Bethlehem University, and both were rejected by the administration. Further exerting its power, the civil administration also assumed strict watch over the universities' educational materials. and many books on subjects like philosophy, Palestinian history and politics, folklore, and more, were banned without explanation.<sup>222</sup>

Considering these measures, along with Israel's invasion of Lebanon in June 1982 and the following semi-destruction of the PLO military and civil infrastructure, we can conclude that they were not only related to issues of the academic freedom. Rather, they also related to wider issues concerning Israel's intention to foreclose on the option of statehood for Palestinians. In fact, Israelis hesitated very little in expressing

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<sup>220</sup> Gabi Baramki. "Building Palestinian Universities under Occupation". In *Journal of Palestine Studies*. Vol.XVII.No.1., (Autumn 1987), P.18.

\* Since 1967 Palestinians in the territories were asked to apply for identity cards to be issued by the military administration. Any Palestinian who did not have this card was treated as a foreigner and asked to apply for a resident permit.

<sup>221</sup> Nasser Aruri. "Universities under Occupation: Another Front in the War against Palestine". In Aruri (ed.). *Occupation*, op.cit., P.320.

<sup>222</sup> Ibid., Pp.331-333.



this intention when they re-elected the Likud party under its slogan "...no to Palestinian state..."<sup>223</sup>

### ***The First Intifada (1987-1993): Palestinians Attach Further Themselves to Grassroots Institutions***

As discussed above, Israeli policy toward autonomous Palestinian institutions had changed drastically since the Likud party's assumption to power in 1977. Likud policy sought to abrogate any Palestinian attempts to lay down institutional infrastructure for Palestinian state. In response, Palestinians continued to break with formal state institutions and deepened their attachments to grassroots organisations. This was clearly the case during the *Intifada* (literally translating as "a shaking off").<sup>224</sup> The *Intifada* (1987-1993) was the most spontaneous of Palestinian uprisings against the occupation, and encompassed all segments of the population: young and old, male and female, rich and poor, intellectual and illiterate, religious and secular, rural and urban. It expressed the Palestinians' protest against the humiliating conditions imposed on them by the occupation, as well as their desire for complete disengagement from that occupation's control.

The most notable expression of this disengagement appeared in the Popular Committees set up in each village, town and city. These committees were arbitrated by the Unified National Leadership for the Uprising (UNLU), which was established in early 1988 to steer *Intifada* activities. Comprised of four members representing the main factions of the PLO (Fatah, PFLP, DFLP and the Palestinian Communist Party), the UNLU issued weekly leaflets providing detailed instructions for how Palestinians should act.

Usually, these instructions related to political, social and economic issues. The Popular Committees functioned as the executive body to enforce UNLU decisions and

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<sup>223</sup> Efraim Torgovnik. "An Incumbent's Electoral Politics under Adverse Conditions". In Danjuel J. Elazar & Shmuel Sandler (eds.). *Israel's Odd Couple: the 1984 Knesset Elections and the National Unity Government*. Detroit/Michigan: Wayne State University Press, 1990, P.39.

<sup>224</sup> Numerous works deal with the *Intifada*. For an excellent and first hand account of the movement see Ze'ev Schiff & Ehud Ya'ari. *Intifada: The Palestinian Uprising-Israel's third front*. New York/London: Simon and Schuster, 1989. For a more recent assessment see Andrew Rigby. *Living the Intifada*. London & New Jersey: Zed Books, 1991 & F.Robert Hunter. *The Palestinian Uprising: A War by Other Means*. Berkeley/Los Angeles: University of California Press, 1991.

were backed by Strike Forces. These forces were established to punish Palestinian collaborators and those who breached UNLU decisions — for example, hours for commercial strikes fixed by the UNLU, or boycotts of Israeli products and labour markets. The Popular Committees also assumed the considerable challenges of guarding camps at night, distributing food to refugees to support their steadfastness, and collecting funds to support families of martyrs, detainees, and injuries. Finally, these committees also assumed the considerable task of organizing rites of conciliation between disputing families, and acted as arbitrators between said families.

Later, the Popular Committees created a system of informal classes to provide educations for Palestinian students who had been denied access to their schools when Israel instituted a formal, mass closure of Palestinian schools in the West Bank, and in light of the spot closure that had been in place in the Gaza Strip since February 1988. These classes, which relied on volunteer teachers, were organized in all Palestinian neighborhoods. Usually, they took place in camp houses provided for elementary, preparatory and secondary level students.<sup>225</sup>

Many factors hindered this system from achieving more success and replacing the students' lost formal education. Among these was the involvement of the students in the daily activities of the *Intifada*, which left them subject to Israeli measures including detention, shootings (potential death), and so forth. The students' *Intifada* involvement and the important absence of a system to confer certificates or degrees created little incentive among students to attend the informal classes, and so destabilized the good intentions of the system. Despite this, the act of organising such classes again signified an expansion of the social base of the Palestinians who practiced para-state functions. The Popular Committees, which operated this system, recruited their members from the refugees of camps and in most cases these refugees

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<sup>225</sup> Similar informal education was provided by the Palestinian universities, declared closed by the occupation late December 1987. Unlike the elementary, preparatory, and secondary informal educational bodies, however, the informal university-level courses were organized by the universities themselves and, in most cases, classes took place in facilities secured by a university but far from its campus. For instance, in Bir Zeit University, the last to be reopened by the occupation in 1992, we used the YMCC centre and the Red Palace Hotel in Ramallah, as well as the former Hostel of Bir Zeit (which supported female students). Though the latter building was formally part of the university campus, the occupation seemed to turn a blind eye to its "illegal use". For more information on the informal education systems in place during the *Intifada* see Robinson, op.cit., Pp.100-110.

led and supervised the committees' activities. Thus the *Intifada*, enabled the refugees of the territories to join with *ayan*, and middle class Palestinians in participating in para-state activities.

The notable development here not only relates to the inclusion of a new social stratum in the practice of para-state functions, but also to the emergence of a new political ideology alongside the extant pro-PLO political ideology (secular ideology), as expressed in the Islamist Popular Committees. These committees were associated with the main Islamic movements that emerged in the late 1980s: Hamas (the Arab acronym for the Islamic Resistance Movement, which translates as “zeal” or “bravery”) and Islamic Jihad. Both movements, which gained momentum during the *Intifada*, followed ideological lines that differed from that of the PLO.

While the PLO advocated the establishment of a secular state comprised of the West Bank and the Gaza Strip, Hamas and Islamic Jihad advocated the establishment of an Islamic state on the whole of Mandate Palestine, and claimed Palestine as *Waqf* land owned by Muslims throughout the world; consequently, no one had the right to cede control of any part of it to a non-Muslim. In this sense, they did not distinguish between land occupied during the 1948 and 1967 wars.<sup>226</sup>

The ideological coincidence of Hamas and Islamic Jihad regarding these general principles did not at first imply an agreement on the instruments necessary to realize the goal of establishing an Islamic state all over Mandate Palestine. While Islamic Jihad placed equal emphases on the important of resistance and the revival of the Islamic society in attaining this goal, Hamas perceived greater import in the revival of Islamic society. However, as the *Intifada* unfolded, out of a fear of losing its constituencies of support Hamas revised its approach and adopted one more in line with that which was articulated by Islamic Jihad.

Hamas' revision of its approach toward the struggle with Israel enabled it to claim wider constituencies of support in the territories, and thus to emerge from then onward as an influential player in Palestinian politics. Hamas could therefore stand in

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<sup>226</sup> For more on this theme see Article Michel Jubran & Laura Drake. “The Islamic Fundamentalist Movement in the West Bank and Gaza Strip”. In *Middle East Policy*. Volume II, No.2, 1993.

opposition to the PNC's resolutions of November 1988 (announced in the West Bank and in the Gaza Strip), which provided for PLO endorsement of the right of Israel to exist in peaceful relations with the state of Palestine, and at the time gained the recognition of around 100 states.<sup>227</sup>

Hamas also stood in opposition to those peace initiatives made during the *Intifada*, including the peace initiative of President of Egypt Hosni Mubarak — the so called Ten Points Plan — and the following Five Point Plan. The latter, which was advocated by USA secretary of state James Becker in the summer of 1989, was formed along the same lines as the Mubarak plan and called for Israeli-Palestinian negotiations to be sponsored by Egypt and the United States.<sup>228</sup> Hamas was not the only party to oppose these initiatives. The Likud government also refused to deal with any of them, despite the PLO having given them its blessing (in particular, the Mubarak initiative). The following right-wing government, formed in 1990, pursued the same anti-peace policy and refused to negotiate any peace initiative.

After Iraq's invasion of Kuwait in August 1990 and the subsequent Gulf War (1990-1991), and in light of the collapse of the Soviet Union, the US began to intensify its diplomatic efforts in the post-war Middle East with the aim of re-drawing its political map. At the time, the American administration envisaged a peace conference co-chaired by the United States and Russia, designed to negotiate a "land for peace". The Likud government, under huge pressure from the American administration to participate, conditioned the Palestinian participation in the conference by attaching insider Palestinians (Palestinians of the territories) to a Joint Palestinian-Jordanian delegation.

The PLO, which had suffered the loss of the logistical support of the Arab states (due to its support of Saddam Husein's invasion of Kuwait) and the financial support of Gulf countries (cut off for the same reasons as that of the Arab states), had no option but to accept Israel's conditions with few modifications. The PLO demanded Jerusalem be represented by the Palestinian team, and the right to decide the team's

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<sup>227</sup> See *Jerusalem Post* on 14, 15, 16, November 1988.

<sup>228</sup> For a discussion of the peace initiatives put forth during the *Intifada* see Edgar O'Ballance. *The Palestinian Intifada*. London: Macmillan Press, 1998, P.50-84.

members. The Likud government, under U.S. pressure, responded to PLO demands and so the Madrid Peace Conference began on 30 October 1991. This did not imply a successful conclusion for the conference. In fact, Israel adopted a tactic that, according to Israel's Prime Minister Yitzhak Shamir, sought to prolong the negotiations for 10 years (during which it might accelerate settlement building and accomplish further changes on the ground).<sup>229</sup> This tactic made the round of talks in Madrid and those that followed in Washington (1991-1992) unproductive.

The deadlock of the peace talks intensified already extant opposition to the Madrid process, and prompted Hamas, which had taken the leading role in opposing the Madrid process, to escalate its Military operations against Israeli targets. The most notable of these operations was carried out by a group of Izz al-Din Qassam brigades, the Military wing of Hamas, which shot and killed three Israeli soldiers in the Gaza Strip town of Beit Lahya on 7 December 1992.<sup>230</sup> Less than a week later, Hamas succeeded in kidnapping the Israeli soldier Nissim Toledano, and demanded the release of its spiritual leader Ahmad Yassin in exchange for its own release of Toledano.

This act, considered intolerable by the newly elected Labour government led by Prime Minister Yitzhak Rabin, enabled Hamas to claim further constituencies in the territories. In retaliation for the deaths of the three soldiers and the kidnapped Toledano (whose body was found by Bedouin women in a village near East Jerusalem on 15 December), Rabin's government detained more than 1,200 Hamas and Islamic Jihad supporters, and expelled over 400 to Marj El Zuhur in South Lebanon<sup>231</sup> Hamas' actions bolstered its credibility among Palestinians, and introduced the organisation as a serious alternative to the PLO. When it became clear that the Madrid process was useless, Arafat perceived this development as a particularly serious threat to his status and organization within the territories. To counter the growing status of Hamas then, Arafat urgently needed a political achievement of any sort.

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<sup>229</sup> Afif Safieh. "The Peace Process: From Breakthrough to Breakdown". In *Palestine-Israel Journal*. Vol.IV. No.1 1997, P.75.

<sup>230</sup> *Jerusalem Post* on 8 December 1992.

<sup>231</sup> See *Ibid.* On 14, 15, 16, 17, 18 December 1992.

In January 1993 Arafat endorsed the Norwegian-sponsored backchannel initiated by Ahmed QrieH (better known as Abu Alla) and Yair Hirschfeld, an Israeli Senior Lecturer on Middle East Affairs at Haifa University. The first round of negotiations between these two men was held during the period of 20-22 January 1993, before being upgraded to include top officials from both sides; on 20 August 1993 the negotiations culminated in the Declaration of Principles (DOP) or, as it is more commonly known, the Oslo accord.<sup>232</sup> The DOP stipulated autonomous Palestinian institutions (national level state institutions) in the West Bank and in the Gaza Strip. Art. I of DOP stipulated that “the aim of the Israeli-Palestinian negotiations...is, among other things, to establish Palestinian Interim self-Government, the elected council (the “council”), for the Palestinian people in the West Bank and the Gaza Strip, for a transitional period no exceeding five years...”<sup>233</sup>

The DOP enabled Palestinians, for the first time in their history, to enjoy their own state institutions, in particular at a national-level. Though Palestinians had access to national-level institutions under Ottoman and Jordanian rule, as well as under Egyptian rule, these institutions had remained not their own. More importantly, they took part in these institutions not in their capacity as Palestinian citizens, but rather as either Ottoman or Jordanian citizens (excluding the Gazans, who had been under the Egyptian rule discussed earlier); therefore their access to these institutions was conditioned by their loyalty to a ruler, and confined to a particular social stratum. The situation was worse under British Mandate and Israeli occupation. Under both rules, Palestinians had been denied all access to national level government institutions, although they were permitted to take part in local level institutions. In both cases, however, their access remained hostage to the political atmosphere of the country, and was limited to a specific social stratum.

With the signing of the DOP, Palestinians were for the first time permitted a cabinet, a legislative assembly, a bureaucratic system, and other para-state institutions, and the decision of who should enjoy access to these institutions was to made by Palestinians

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<sup>232</sup> For a detailed account of the negotiations of this Norwegian-sponsored backchannel see David Makovsky. *Making Peace with the PLO: the Rabin Government's Road to the Oslo Accord*. Washington D.C.: Westview Press, 1996.

<sup>233</sup> The full text of the DOP is cited at <<http://www.usembassy-israel.org.il/publish/peace/decprinc.htm>>

alone, rather than by foreigners as was the case before. The next chapter discusses the system of the Palestinian autonomy promoted by DOP (eg. the Oslo process), and shows how this system operated. It will focus therefore on the structure of the newly emerged Palestinian Authority, the relation of this authority to political society, civil society, and general publics — finally addressing the mode of government that emerged in the autonomous areas.

### **Chapter III: Gaining Autonomy through Oslo**

#### **On the Peace, the People, and the Authority**

“I think that what is being discussed in Israel now is not whether the Palestinians should have a state or should not have a state, an entity or not entity. What they are discussing is the size, the capital, what should be included, whether it should be armed or not armed...”<sup>234</sup>

With these words, former Palestinian Minister of Local Government and Chief Palestinian Negotiator Sa'eb Erekat described the shift in the Israeli position toward the Palestinian entity promoted by the Declaration of Principles (DOP) made on the 20th of August 1993. Erekat's main point was that the DOP highlighted Israel's formal recognition of Palestinian national existence, and thus transferred the issue of Palestinian entity from the realm of theoretical possibility into that of empirical reality.

Nonetheless, the above recognition did not imply Israeli recognition of a Palestinian right to self-determination and statehood. From the Israeli point of view, the DOP stated that a change in the status quo had prevailed for the first time since the Israeli occupation of WBGS in 1967; yet as far as Israel was concerned the scope of this change must remain subject to open-ended negotiations which should be regulated mainly by the principle of a power-balance apart from any international legality, and which should leave the door open for every possibility (including that of a Palestinian state). This was the Israeli logic of peace upon which the DOP rested, and according to which Israel conditionally recognized the right of Palestinians to take control over some crucial features of any negotiated state.

#### ***The Background Behind and Rise of the PA***

With conditional recognition of Palestinian national existence and the Cairo Agreement (signed on 4 May 1994, regarding the Gaza Strip and the Jericho area),<sup>235</sup>

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<sup>234</sup> Interview with *Palestine-Israel Journal*. Vol. III no ¾ (summer/Autumn 1996), P. 21.

<sup>235</sup> The full text of the agreement is cited at the following link:  
<http://www.usembassy-israel.org.il/publish/peace/gazjerich.htm>



Israeli forces pulled out of parts of the Gaza Strip and withdrew completely from the West Bank city of Jericho (which constitutes approximately 1% of the West Bank). The Palestinian Authority (PA) was established to replace the outgoing Israeli forces. Following was an Israeli-Palestinian interim agreement regarding the West Bank and the Gaza Strip (known as the Taba Agreement, or Oslo II), which was signed on September 28, 1995. In December 1995 arrangements issuing from these events extended to the PA partial/full rule over a further 27% of the West Bank, and promised further extension of PA rule over the whole of the West Bank (excluding the settlements) by the end of 1997.

The rule of the PA, according to these agreements, had been specified to cover only civil spheres, and was to be applied only to Palestinians in the self-ruled areas, excluding Palestinians in East Jerusalem and those who lived in the Jewish settlements built in self-ruled areas which; along with those regarding refugees, borders, foreign relations, water, and other matters (e.g., the issue of final status), were agreed to be negotiated during the final status talks set for the beginning of the third year of the five-year interim period.

The clock regulating this period would begin to tick on the arrival of the PA in Gaza and Jericho (May 1994). Under the agreements, UN Security Council Resolutions 242 and 338 were to be implemented. Until agreement over final status issues was reached, Israel would keep control of external security, borders, and foreign relations. Moreover, she would maintain the right to extend her jurisdictions over Jewish settlements in the West Bank and the Gaza Strip, and to control the military posts and the bypass roads surrounding these settlements. Altogether these areas constitute approximately 40% of the Gaza Strip and 72% of West Bank. Israel also retained the right to review PA legislation regarding civil powers.

By virtue of these agreements the PA, whose composition was limited to 24 members (Article IV of the Cairo Agreement) was empowered with legislative, executive, and judicial authority to handle civil issues. The legislative authority of the PA included the promulgation of primary and secondary legislation, including the basic law or

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constitution for the interim period, and other matters. However, Article VII. 3 of the Cairo Agreement enabled Israel to veto any legislation inconsistent with her interests.

With the conclusion of Oslo II, in order to enable the PA to assume rule over further territories (as provided by Oslo II) the composition of the PA, previously constructed to correlate with the Palestinian Council, was expanded to 82 elected members for the duration of the interim period. The chairman of the executive branch (authority) of this council was to be elected by Palestinians at the same time as they elected the members of the Palestinian Council, and would form with them the interim Palestinian self-government. (Articles I, II, III, IV, and V of Oslo II).

Thus, for the purpose of our discussion the term PA will be understood as meaning the executive authority (including the President) of the Palestinian self-government alongside those Palestinian security forces provided for by article VIII of the Cairo Agreement; these forces were allowed for to serve the aim of keeping “public order and internal security for Palestinians of the Gaza Strip and the Jericho area”. Article III of Annex I of the same agreement established the population of these forces at 9,000, out of which up to 7,000 were recruited from abroad. It was agreed that the forces would be distributed among the Civil Police (*Al Shurta*), Public Security (or as it is commonly known: the National Security Force *Qwaat Al Amn Al Watani*), General Intelligence (*El Mukhabbarat al-Amma*), Emergency Services and Rescue (*Al Difa’a Al Madani*), and the Palestinian Coastal Police.

These five security branches were the only branches the PA was permitted by the Cairo Agreement to establish. Yet with the conclusion of Oslo II and the subsequent extension of PA rule over further cities and towns in the West Bank, the PA was later permitted to increase the number of its security forces to 30,000, out of which up to 12,000 were to be deployed in the West Bank, and 18,000 to be deployed in the Gaza Strip. Moreover, the PA was also permitted to establish additional security branches including Preventive Security, and *Amn Al Ri’asah* (Presidential Security) (Article. IV of Annex I of the Oslo II/ Taba agreement).

Accordingly, in a strict legal sense, the Palestinian security forces was to be composed of seven security branches; however this number was likely to prove fluid during the

interim period as local residents joined these forces and new branches emerged. At least four security branches did emerge: the Military Intelligence, Military Police (said to be attached to Military intelligence), Air Guard, and Special Security (*Al Amn El Khas*).<sup>236</sup> The proliferation of the Palestinian security forces and local residents' participation in them, according to some, increased their total number to approximately 50,000 security personnel.<sup>237</sup>

With 50,000 security personnel, the autonomous areas were said in 1998 to be the most heavily policed territories in the world, having one security person per every 59 residents (the estimated population of the autonomous areas was 2,958,579 in 1998).<sup>238</sup> Most of these forces were either recruited from groups of ex-PLO militants, or had been Fatah activists during the *Intifada*, in particular connected to armed popular committees (such as *qwaat Dariba*, or Strike Forces) and popular committees (like *Lijan Sha'biya*) which had been dissolved after Oslo. Consequently, the PA's various security branches served to contain these activists and created a protective vanguard for Arafat's policy and rule.

Administratively, the forces are noteworthy for how their responsibilities overlapped, and the unclear & ambiguous delineation of their functions and mandates. With the exception of the Special and Presidential Security Forces that operated under Arafat's command, all the forces were directed by Palestinian officials, who reported to Arafat alone (he exercised ultimate authority over them). They lacked any sort of coordination with each other, and acted without reference to law or due legal procedures. Alongside the PA's various security forces, Islamist militants including the *Izz al-Din Qassam* brigades, the military wing of Hamas, and Islamic Jihad militants could establish themselves as clandestine organizations enjoying autonomous status outside of PA control.

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<sup>236</sup> Gal Luft. "The Palestinian Security Services: Between Police and Army". In *Journal of Middle East Review of International Affairs (MERIA)*. Vol 3, no.2, June 1999, Pp.2-3. Internet edition <<http://meria.idc.ac.il>>

<sup>237</sup> Graham Usher. "The Politics of Internal Security: The PA's New Intelligence Services". In *Journal of Palestine Studies*. Vol. XXV, no.2 (winter 1996).

<sup>238</sup> Palestinian Central Bureau of Statistics (PCBS). *Statistical Abstract of Palestine*. Ramallah/Palestine: November, 2003, No."4", P.189.

The positioning of the *Izz al-Din Qassam* brigades along with the Islamic Jihad militants outside of the PA's control implied the PA's lack of a crucial feature of any sovereignty: a monopoly on the use of coercive force. Faisal El-Husayni, a former PLO member and director of Orient House in East Jerusalem, expressed an awareness of the importance of monopolizing coercion in any modern state when he called upon people "to stop using weapons and to hand them over to the Palestinian Authority...with the presence of the Palestinian security, there is no need for people to maintain using weapons".<sup>239</sup> Thus, from the very beginning the PA was asked to assert itself as a sole source of coercion.

This challenge reveals a major feature of post-Oslo Palestinian politics: that it had to unfold as a politics of state-in-making within Palestinian territories subject to the context of peace process parameters. This political scramble weakened the role of the PLO and its independent militant groups (like the PFLP, the DFLP, and so on), as well as its political institutions like the PNC and the executive committee; moreover, it limited the role of these institutions to that of "broker" for the newly emerging PA and its peace policy.<sup>240</sup>

The rise of the PA as a central authority within the Palestinian territories, which had the rights to monopolize coercion and to rule society within the context of the peace process parameters, revised the premises of Palestinian politics. Unlike the PLO era, in which various Palestinian militant groups enjoyed independent status and representation in various PLO institutions based on a quota system, the PA was dominated by Fatah-affiliated officials who sought — within the context of the peace process — to evolve this authority into a state with derivative attributes including a monopoly on coercion.

The PA was also asked to deal with the negative economic repercussions of the 27 years of Israeli occupation of the WBGS. In seeking to subordinate the economy of the WBGS to her priorities and needs, Israel discouraged the development of large-

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<sup>239</sup> *Jerusalem Post* on 23 May, 1994.

<sup>240</sup> The Palestinian National Council (PNC), for example, had been totally ignored when the Oslo accords were signed. But on 21 April 1996 Arafat addressed a two-hour closed session of the PNC set to vote on changing of some clauses in the Palestinian Charter that called for Israel's destruction. The change was voted on with 504 in support, 54 against, and 14 abstentions. See *Palestine Report*. Vol.1, no.49, May 10, 1996. Online <<http://www.palestinereport.org>>

scale industrialization and had treated the WBGS as a market for her products and as a source of cheap labour. Due to such policies the economy of WBGS had become very much connected to the Israeli economy, and the livelihood of a large segment of Palestinians in the West Bank and in the Gaza Strip was dependent on employment within Israel. On the eve of the first *Intifada* in 1987, for instance, the WBGS constituted one of the largest markets for Israeli products, with approximately 961.2 million USD states as the value of WBGS imports from Israel vs. the 303.7 million USD said to be the value of the WBGS's exports to Israel. In the meantime, no less than 40% of the WBGS's labour forces were working inside Israel. This reduced the contribution of the WBGS's GDP to the GNP by about 18% during the period of 1970-1987.<sup>241</sup>

The economy of WBGS witnessed further deterioration during the years of the first *Intifada* (1987-1993), manifested as the significant contribution of the agricultural sector to GDP (33% of GDP issued from agricultural fields) and a weak investment in infrastructure (3% of GDP).<sup>242</sup> The overall result of this situation was low Palestinian GDP. Indeed, Palestinian GDP was estimated at 4.1% of Israeli GDP (whose estimation was 62,000 million USD), and in 1992 low Palestinian GNP per capita was estimated at 16% of Israeli GNP per capita (estimated at 11,760 USD).<sup>243</sup> With the implementation of the Israeli policy of "closure" the deterioration of WBGS's economy only sped up.

The policy of closure, which is regarded as an Israeli innovation, was first implemented in 1991 during the first Gulf War; the West Bank and Gaza Strip were sealed for approximately six consecutive weeks. Though Israel claims that this closure was implemented for security reasons, a careful scrutiny of the Zionist ideology upon which the state of Israel was founded indicates that the closure was actually carried out with racist and political considerations. The chief objective of closure is to separate Palestinians from Jews in a way that secures the "Jewishness" of the state of Israel.

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<sup>241</sup> Samir Barghouthi. "Development of the Palestinian Economy: 1948-1997". Ramallah/West Bank: The Democracy & Workers Rights Center in Palestine, 1997, Pp.8-10. Online <<http://www.dwrc.org/studies/development.pdf>>

<sup>242</sup> Sharif S. El Musa & Mahmud El-Jaafari. "Power and Trade: The Israeli-Palestinian Economic Protocol". In *Journal of Palestine Studies*. Vol.xxiv, no.2 (Winter 1995), P.19.

<sup>243</sup> Figures from *Palestine-Israel Journal*. No.1 (Winter 1994), P.106.

The foundation for this idea was laid down on the arrival of the second *Aliyah* (wave of Jewish immigrants) in Palestine in the period 1904-1914. Most of this wave's members, a population estimated at 25,000, were inspired by the ideology of the Russian-based movement of "Lovers of Zion", which strongly advocated the rebuilding of a pure Jewish political, economic, and ethical identity. Toward this end, members of this wave, including David Ben-Gurion (the first Israeli Prime Minister), Yitzhak Ben-Zvi (the second President of Israel), Moshe Sharett, and Levi Eshkol (both became Israeli Prime Ministers),<sup>244</sup> advocated the principle of "*Kibbush Ha'avoda*" (Hebrew for "conquest of Labour"). This principle called for reliance on Jewish labour and the exclusion of Arab/Palestinian labour from Jewish settlements as a means of strengthening Jewish ties to the country's soil.<sup>245</sup> The concept appears to have been invoked in the last decade, but in the more comprehensive form of closure.

Closure regulations deny Palestinians from the West Bank and Gaza Strip access to Jerusalem (including East Jerusalem) and Israeli territory, and forbid movement between the West Bank and the Gaza Strip by people without permits. To obtain such a permit, an individual is subjected to strict security scrutiny, and in most cases, the permit is denied. All Palestinians, including professionals, merchants, workers inside Israeli territory, Gazan students in the West Bank's universities, those seeking medical treatment in Israel or Jerusalem, and so forth, are asked to have permits. Should the permit be granted, it is subject to various restrictions regarding time (specific hours for entry and exit) and duration (for example, a permit might be issued for a day, week, et cetera).<sup>246</sup>

Due to these restrictions, a large portion of the estimated 40% of the WBGS's labour forces (the total of which was estimated at 312,000 in 1991<sup>247</sup>) employed inside Israel before the closure either lost their work or became engaged in more casual labour on a daily/weekly basis; the latter depended on whether they were granted a permit, and on the duration of the permit. This meant that the future of these workers became hostage

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<sup>244</sup> Yosef Gorny. *Zionism and the Arabs, 1882-1948: A study of Ideology*. Oxford: Clarendon Press, 1987, P.13.

<sup>245</sup> Martin Sicker. *Reshaping Palestine: From Muhammad Ali to the British Mandate, 1831-1922*. London: Greenwood, 1999, Pp.97-98.

<sup>246</sup> Muhammad Nakhal. "Closure and Borders". In *Palestine-Israel Journal*. Vol.III no. ¾ (Summer/Autumn 1996), Pp.118-123.

<sup>247</sup> Gil Feiler. "Creating Jobs for the Palestinians". In *Ibid*. No.1 (winter 1994), P.97.

to political shifts within the territories. When there was stability they could get work some days inside Israel, and when there wasn't stability they could not.

The PA, therefore, inherited from Israel a regressive economic system and generally destroyed infrastructure. To preserve the new political order stimulated by the Oslo agreements, and to preserve the peace process, the PA, Israel, and the United States agreed that a new economic order was necessary to re-define the asymmetrical economic relationship between Israel and Palestinians.<sup>248</sup> Against this background, the PLO, on behalf of the PA, signed the Protocol on Economic Relations<sup>249</sup> with the Israeli government in Paris on 29 April 1994, and this was annexed to the Cairo Agreement (Annex IV).

By virtue of the Protocol on Economic Relations, the PA was able to set up a Monetary Authority (the PMA) to supervise and regulate the banking sector and to assume the fiscal powers the Israeli government had held within the territories. These powers included bank licensing and regulating foreign exchange transactions, in addition to others (Art. IV, 1-7). Even so, the PMA was denied any right to issue an independent Palestinian currency, and Israeli currency (Israeli New Shekel, NIS) remained the official tender in the territories; the US dollar and Jordanian dinar, in addition to the Egyptian pound (in the Gaza Strip) are also commonly used. The refusal to allow an independent Palestinian currency denied the PA the capacity to design its own monetary policy, particularly with respect to establishing interest rates and currency values. Accordingly, the Palestinian economy was continually at the mercy of Israeli currency fluctuations.

Still, the PA was granted some economic freedom insofar as its imports from Arab countries (mainly Jordan and Egypt) were concerned. Article III enabled the PA to set up an independent import policy, which included the rate of customs, purchasing taxes, and establishing levies on all goods and products imported from these countries. In so doing, the PA was restrained by the criteria of the GATT 1994 agreement (Art. III. 2, b). The PA import policy was to be confined to specific goods

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<sup>248</sup> Sara Roy. "U.S. Economic Aid to the West Bank and Gaza Strip: The Politics of Peace." In *Middle East Policy*. Vol.IV, no. 4 (October 1996), Pp.59-62.

<sup>249</sup> See "Protocol on Economic Relations Between the Government of Israel and the PLO", Online <<http://mondediplo.com/focus/mideast/paris94-en>>

and products specified in Appendix I and II of the protocol; specified products included food and agricultural products, construction materials, household electric appliances, as well as capital goods (e.g., farm machinery, equipment used within the textile industry, and so forth).<sup>250</sup>

All goods and products not included in the mentioned categories were subjected to Israeli import policies, including Israeli customs, purchase taxes, and levies (Art. III. 10). As the result of Israeli custom taxes being imposed on these goods, the PA was forced to increase the customs taxes on these goods and products when Israel did, a situation which had negative economic ramifications given the low Palestinian GNP per capita (as compared with Israeli GNP per capita).

Furthermore, the PA was not absolutely free to decide the specific quantities to be imported of the goods and products over which it exercised independent import policy. Art. III. 2 restrained the PA in this respect by connecting such quantities to the Palestinian market needs that were agreed would be decided by a sub-committee of experts from both sides (Art. III. 3). The sub-committee was derived from the Palestinian-Israeli Joint Economic Committee (JEC) which was set up by virtue of Art. II. 1 to oversee the implementation of the protocol. Thus the PA became hostage to the committee's interpretation of market needs. These needs were connected mainly to the Palestinian marginal propensity to consume (MPC), a variable that was extremely uncertain in light of the unstable political situation in the WBGS. The overall outcome, therefore, is that the PA's ability to accrue financial gain from such new import regulations was uncertain and subject to unexpected changes in local demand.

Despite this, the PA enjoyed other financial channels due to its right of direct taxation; these included income and property taxes (Art. V.1-3), in addition to indirect taxation including VAT set at a rate of 15-16% (Art. VI). The PA also succeeded in gaining Israeli endorsement of a monthly transferring [to itself] the income taxes deducted by Israel from the pay-checks of those Palestinian labourers employed inside Israeli territories (Art. VII). No less than 75% of this tax was agreed to be transferred to the

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<sup>250</sup> See Annexes I & II of the protocol in *ibid*.



PA (Art. V.4). According to some estimates the PA, by virtue of these regulations, gained approximately 360-420 million USD in direct tax and VAT, and an annual 180 million USD in tax deductions.<sup>251</sup> Still, while the first two channels (direct tax and VAT) were under the PA's full control, the transfer to the PA of income tax deducted by Israel from Palestinian labourers remained subject to Israeli good will, the political atmosphere, and in particular any advances in the peace process.

PA financial gains from direct and indirect taxation came at the expense of its ability to control the flow of fresh Israeli agricultural and industrial products into its territories. Art. VIII. 10 stimulated unrestricted flow of fresh agricultural products between the PA's territories and Israel; this, of course, placed Palestinian farmers at a disadvantage, as Israeli farmers enjoyed the subsidies and support of their government while Palestinian farmers were denied these by the PA's financial weakness. Moreover, the unrestricted flow of agricultural products between the PA's territories and Israel was not applied to those products that allowed Palestinian farmers a comparative advantage in terms of their production (e.g., potatoes, cucumbers, and tomatoes). The PA was not permitted to export more than the annual quantities of said products specified by the protocol (at least the case during the period of 1994-1998).

Art.VIII.10 was accompanied by article IX, which provided for the unrestricted flow of Israeli industrial products into the PA's territories. This article further institutionalized the economic relations between the Israel and the territories to favour Israel's priorities and needs; it denied the low-capital and small-scale Palestinian industrial sector any competitive power within its relationship with the highly developed, sophisticated, and subsidized Israeli industrial sector.

The protocol regarding economic relations, therefore, further institutionalized the asymmetrical economic relationship between Israel and the Palestinian territories that had prevailed since the Israeli occupation of the WBGS in 1967. The economic parameters of this protocol, plus the PA's lack of control over key resources in the occupied territories (including water), forced the PA to turn to the international community for assistance for its development efforts. The PA had significant hopes

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<sup>251</sup> Barghouthi. "Development of the Palestinian Economy, op.cit., P.11.

that the international community would develop Palestinian autonomous areas. In July 1994 Arafat told a news conference in Cairo that “the Israeli colonization destroyed the Palestinian infrastructure. We have to start from scratch in everything and this is the responsibility of the international community.”<sup>252</sup>

Arafat’s words sought to remind the international community of its pledges and promises to assist the process of state-building in the WBGS, made at the first donors’ conference in support of Middle East peace that took place in Washington DC in October 1993. Approximately 50 delegations represented 50 states and international organizations, attended the conference and committed some 2.3 billion USD to assist Palestinians in the development and reconstruction of their territories during the period of 1993-1998. By December 1998, the PA had received some 2.1 billion USD<sup>253</sup>; of this, approximately 525 million was received in 1994. Nearly 10.5% of the funds received in 1994 was allocated to building PA security forces, and another 6% to building PA institutions (including bureaucratic ones, of course), compared to the 10.2% allocated to education, 5% to the health sector, 0.75% to agriculture, 0.13% to transportation, 0.68% to human rights, 2% to democratic development, and 1.71% to private sector development. The remaining funds were allocated to support concerns like women’s issues, housing, environment, and so forth. No funds whatsoever were allocated to the legal and industrial sectors.<sup>254</sup>

The donors’ main concern was over the success of the Oslo process and, accordingly, they emphasised the import of a stability achieved only through a strong central authority. Hence they also placed greater emphasis on developing the PA’s capacity at the expense of other sectors like civil society and the economic sectors (agricultural and industrial). By strengthening PA capacity and ignoring these other important sectors, donors accelerated the emergence of a centralized rule in the WBGS. This situated the PA in direct confrontation with the wishes and hopes of the WBGS population and its priorities of democracy and improved economic conditions. In a poll conducted by the Centre of Palestine for Research and Studies (CPRS) in Nablus in November 1993, 74% of WBGS Palestinians supported the establishment of a

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<sup>252</sup> *Jerusalem Post* on July 3, 1994.

<sup>253</sup> *Financial Times* on 1 December, 1998.

<sup>254</sup> *Ministry of Planning and International Cooperation (MOPIC)’s 1997 Third Quarterly Monitoring Report of Donor Assistance*. Gaza: MOPIC, October 31, 1997. (unpublished report).

democratic system based on free elections, separation of powers, accountability and transparency. The poll also revealed 72% of Palestinians supported the right of the opposition to exist and freely express its opinions.<sup>255</sup>

The opposition was yet another dilemma facing the PA. On 5 January 1994, ten Palestinian Islamic and secular factions — including Hamas, Islamic Jihad, the PFLP, and the DFLP — set up the so-called “Palestinian Forces Alliance” as an opposition front to counterbalance the DOP and the peace process; these factions then made a “declaration of the alliance’s political task”.<sup>256</sup> Justifiably, they pointed out that Oslo process did not provide for a total Israeli withdrawal from the WBGS, and that it maintained the right of Israel to control the majority of WBGS territories. Ultimately, this arrangement denied the Palestinian right to a state and independence.

More importantly, they asserted that by deferring essential, conflicted issues (e.g., Jerusalem, refugees, settlements, and borders) to third-status negotiations, Israel would have the time needed to establish its facts on the ground — thereby making it very difficult for any Palestinian state to be formed. Against this background, the factions declared their commitment to the PLO charter and to national struggle, as well as their commitment to *Jihad* (the war in the path of God) as a means of liberating Palestine.

Despite such declarations, the opposition front quickly collapsed after its members could not agree on how exactly to pursue an opposition policy. While secular factions preferred a peaceful method, Islamic opposition — mainly Hamas — preferred all out war with Israel and its peace process.<sup>257</sup> Toward the latter’s ends, on April 6, 1994 (a few weeks prior to the PA’s arrival in Gaza), in Afula a Hamas car bomb was detonated by Ra’id Abdullah Zakarna (a 25 year old from Kabatyia, near Jenin) next to Israeli bus no. 340, killing seven Israelis and wounding 52 others.<sup>258</sup> Hamas

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<sup>255</sup> Khalil Shikaki. “The Peace Process, National Reconstruction, and the Transition to Democracy in Palestine”. In *Journal of Palestine Studies*. Vol. XXV, no.2 (winter 1996), P.12.

<sup>256</sup> Arjan El Fassed. “Challenges to Oslo: How Strong is the Palestinian Political Opposition?”. Pp.3-4. Online <<http://arjanelfassed.mediamonitors.org/amepaper.html>>

<sup>257</sup> Hamas’ all-out war on the peace process does not imply a Hamas refusal to negotiate and bargain with the PA. On 22 April 1994 a deal was concluded between Hamas and Fatah Hawks according to which Hamas agreed to halt its operations against Israel. The deal quickly collapsed after relations between two sides deteriorated. See *Ibid*.

<sup>258</sup> *Jerusalem Post* on 7 April, 1994.

claimed that the attack avenged the killings of 29 Palestinians by an Israeli extremist, who had acted against Muslim worshippers at the Cave of the Patriarchs (in Hebron) on 25 February 1994. Hamas also warned there would be further actions taken against Israeli targets.

When the PA arrived in May, Israel perceived its main duties as being to maintain Israeli security and to stop further attacks by Hamas. According to Ron Pundik who — in association with Yair Hirschfield — worked the Oslo backchannel, “...the declaration of principles was not signed out of a sudden love for Palestinians, or out of a sudden understanding of the Palestinian political demands, but rather out of a belief that the process will provide more security and better quality of life...”<sup>259</sup> This was and still is the Israeli interpretation of article XV of Oslo II. The article cites that both sides are to “take all measures necessary in order to prevent acts of terrorism”.

This article was further elaborated to place responsibilities on Palestinian security forces to “act systematically against all expressions of violence and terror” and to “arrest and prosecute individuals who are suspected of perpetrating acts of violence and terror” as well as to cooperate with the Israeli security forces “in the exchange of information and coordination of policies and activities”. Furthermore, Palestinian security forces were asked to protect all citizens (including Israeli citizens) in the areas of the PA’s jurisdiction, and “...to prevent and deal with any attempt to cause damage or harm to infrastructure serving the other side...” (Article II of Annex I of Oslo II).

The main problem with the aforementioned articles is their absence of any clarity regarding the terms of how to combat violence and terror were concerned. While Israel insists that the terms imply unconditional security for Israelis, including Israeli soldiers who remain installed around Jewish settlements in the WBGS (in addition to Israeli civilians inside Israeli territories), the PA insists that the terms imply conditional security connected to advancement within the peace process. Furthermore, Israel had to fulfil her commitments to the Oslo accords; in particular she had to halt her settlement activities in the WBGS. As long as Israel failed to meet

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<sup>259</sup> Ron Pundik. “Toward a New Chapter in the Israeli-Palestinian Negotiations?” In *Palestine-Israel Journal*. Vol.II, no.1 (winter 1995), P.8.

her own commitments, the PA continued, Palestinians would retain the right to fight the occupation of their land. Nothing could prejudice this right, as it had already been secured by international law.

The crisis of the PA in this respect derived from the logic of the entire Oslo process. Since the initiation of the peace conference in Madrid in 1991, Israel's main concern was not to hang any peace settlement with the Palestinians on terms of international legality. But the Palestinian insistence on international legality during those negotiations meant the Madrid conference and the following Washington talks would be unproductive. A shift in the Palestinian position occurred when the PLO engaged with the Oslo backchannel, and signed the Oslo accords. By so doing, the PLO accepted the Israeli logic of peace, which rested on the existing balance of power; after this, the PA was left at the mercy of the Israeli interpretation not only of peace, but of security as well.

The Israeli interpretation of security was broader than the PA expected. It was not confined to asking that future attacks on Israeli targets be stopped, nor to the need to "arrest and prosecute individuals who are suspected of perpetrating acts of violence and terror", but rather extended to include a crack down on Hamas and other opposition factions. This view was clearly expressed by Yitzhak Rabin when he declared that through the Oslo process the "PA would be able to repress the Palestinians without appeals to the Supreme Court and without human rights organizations".<sup>260</sup> Rabin's view implied inter-Palestinian violence, a condition considered to be taboo by both the PA and the opposition factions (including Hamas). Dr. Mahmoud El Zahar, Hamas' Gaza spokesman, revealed Hamas' expressed an awareness of the above Israeli plans when he described those in the PA as "brothers...neighbours, ...cousins...we understand what it means, to implement this accord with Israel...we are wise enough not to play the Israeli game".<sup>261</sup>

Yet, while in Hamas' point of view not playing Israel's game meant not being involved in armed confrontation with the PA under any circumstances, it did not imply a stop to attacks on Israeli targets, nor did it imply Hamas' submission to the

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<sup>260</sup> Quoted in Yossi Schwartz. "The danger of a New War in the Middle East". March 22, 2001, online<<http://marxists.de/middleeast/current/war.htm>>

<sup>261</sup> *Palestine Report*. Vol.2, no.4, June 28, 1996.

PA as an ultimate source of coercion. Abu Mohammad Mustafa, Damascus representative of Hamas, pointed out that Hamas “totally reject the disarming of Palestinian people because occupation is still continuing in our land...”<sup>262</sup>

The words of Mustafa point to the main crisis suffered by the PA. When the PLO signed the Oslo Accords, the PLO/PA committed itself to denouncing armed struggle as means of liberation, and also promised to fight all forms of “terror” which might spoil the peace prospects in the region. This commitment, which placed huge responsibilities on the PA, was not met with equal Israeli commitment to ending the occupation of WBGS — e.g., to stopping settlement activities and collective punitive measures like the Israeli policy of closure. Accordingly, the essential features of the old political order (the Israeli occupation of WBGS, so to speak) remained visible and subject to further Israeli-Palestinian negotiations. The PA exerted a great deal of effort to accelerate the disappearance of these features; their presence placed the PA under great pressure from opposition factions — particularly Hamas, which used the structural deficits of the peace accords to justify its military operation against Israeli targets inside WBGS and Israeli territories.

### ***Between a Rock and a Hard Place: the PA’s Search for Legitimacy***

Hamas' military operations were to place the PA under continuous Israeli pressure, and seriously threatened its political future; this was particularly the case given the PA's inability to create structural changes with respect to the economic situation of the majority of Palestinians as a result of its dependence on another partner (Israel) hostile to any vision of effective social, economic, and political liberation for Palestinians living in the occupied territories. This situation in turn subjected the PA to further pressure from its local community.

Fully aware of this, on his arrival in July 1994 Arafat made his first speech on Palestinian soil and sought to recruit wider support for the Oslo Accords by appealing to his people “to be united as one man...to build...homeland as free men, a homeland of democracy, freedom and equality.” Statehood, in Arafat's opinion, would be difficult to attain without containing his opponents (mainly constituted by Hamas),

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<sup>262</sup> *Jerusalem Post* on 27 May 1994.

who considered his visit to Gaza “...shameful and humiliating, as it occurs in the shadow of occupation and in the shadow of Arafat’s humiliating submission before the enemy government...” Accordingly, in an address to Ahmad Yassin — the Hamas leader who had been jailed by Israel since 1989 — Arafat vowed “not to rest or be silent until you are (Yassin) with us by our side, here, here, here...”<sup>263</sup>

Arafat’s accommodation of his opponents expressed one part of his future policy toward them; Barry Rubin concluded that Arafat pursued a mix of both accommodative and oppressive policies in this respect.<sup>264</sup> Though he enabled his opponents to maintain their social institutions/military infrastructure, and opened channels of dialogue with them,<sup>265</sup> he also exhibited a readiness to combat any possible rebellion against himself (ostensibly, by said opponents). Toward this end, from Tunisia he issued decision no. 14 on 27 August 1994. The decision empowered Arafat with the right to ratify the security forces’ payroll, and the right to decide on the appointments of top-position militants (e.g., colonels, brigadiers, etc).<sup>266</sup>

Having enjoyed this power, he appointed his most loyal militants to head various PA security branches and set himself as chief commander of these forces. Colonel Nasser Yousef — one of said exiled PLO militants — was appointed Commander of the National Security Forces before being replaced by Sae’b AL-A’jz. Amin El Hindi, a Fatah-affiliated militant originally from the Gaza Strip, was said to have disappeared between the early 1970s and the 1990s — a period during which he appears to have served as Commander of General intelligence. Musa Arafat, said to have family connections with Arafat, was appointed as the head of military intelligence. Faisal Abu Sharekh was appointed as the head of the presidential security forces. Ghazi El Jabali, very well known thanks to his loyalty to Arafat, was appointed as the head of the civil police.<sup>267</sup>

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<sup>263</sup> *Ibid*, on 3 July, 1994.

<sup>264</sup> See Barry Rubin. *The Transformation of Palestinian Politics: From Revolution to State-Building*. Cambridge: Harvard University Press, 1999, Pp.12-13.

<sup>265</sup> In February 1997 Arafat called all opposition factions to a national dialogue meeting. From then onward the PA engaged in several rounds of national dialogue with Palestinian factions, with the aim of concluding a nation-wide formula for the peace process. In August, for instance, Arafat held several round of talks with opposition factions including Hamas and Islamic Jihad, for to realize this goal. See *Palestine Report*. Vol.3, no.11, August 22, 1997.

<sup>266</sup> See *Al Waqaea’*, The formal gazette of PA, No.1, 1<sup>st</sup> Year, 20/11/1994.

<sup>267</sup> Usher. “ The Politics of Internal Security”, op.cit., Pp.22-24

Playing the above Generals off each other, and consequently discouraging the emergence of any homogenous command that might challenge his own power, Arafat also introduced a number of insiders to head certain security branches.<sup>268</sup> Colonel Muhammad Dahaln, originally from Khan Younis (the southern Gaza Strip) and in the 1980s the leader of the pro-Fatah youth movement *Al Shabiba*, headed the Gaza branch of preventive security forces. Dahaln headed preventive security in Gaza, Jibril Al Rajub — a Fatah activist in 1970s arrested by Israeli forces — was released and eventually took command of the West Bank preventive security forces.

Notwithstanding their different geographical and cultural orientations, this clique of generals retained loyalty to Arafat in order to protect the peace process and to abrogate any attempt to destroy their regime. For these generals, with Arafat behind them, acting against the peace process seemed a most intolerable act; it was this process upon which the legitimacy of their regime rested, and consequently any attempt to spoil the process was considered an attempt to abrogate their own political legitimacy.

When Hamas's military wing the *Izz al-Din Qassam* brigades kidnapped the Israeli soldier Nahshon Wachsmann on 11 October 1994, the Palestinian generals considered this act to be in defiance against their own regime and did not hesitate to assist Israeli forces in locating Wachsmann. Although the crisis ended on 14 October with Wachsmann's death, after an aborted Israeli rescue attempt,<sup>269</sup> it escalated tensions between Hamas and the PA. On 19 October Hamas, angry at the PA's participation in the crisis, staged another attack on *Dizengoff* Street in Tel Aviv, killing 21 Israelis and injuring dozens of others. The PA, determined to keep peace process alive, launched an arrest campaign against Hamas supporters and detained approximately 200 of them.<sup>270</sup>

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<sup>268</sup> Luft. "The Palestinian Security Services", op.cit., P4.

<sup>269</sup> Naomi Weinberger. "The Palestinian National Security Debate". In *Journal of Palestine Studies*. Vol.XXIV, no.3 (Spring 1995), Pp24-25.

<sup>270</sup> The Palestinian Centre for Human Rights (PCHR). *the Right to Freedom of Expression and the Right to Peacefull Assembly Under the Palestinian National Authority: The Case of the Gaza Strip (May 1994-December 1998)*. Gaza: Series Study (18), September 1999, Pp.52-53. Online <<http://www.pchrgaza.org>>



Islamic Jihad supporters were also targeted by the PA arrest campaigns; no less than 150 of them were arrested on 11 November 1994 after an Islamic Jihad member blew himself up and killed three Israeli soldiers who had been installed on the main road between Rafah (south of the Gaza Strip) and Gaza city.<sup>271</sup> The tension between the PA and the Islamic opposition (primarily Hamas and Islamic Jihad) reached its peak when Hamas organized a demonstration outside Gaza's Palestinian mosque on 18 November 1994 to demand the release of Palestinian prisoners from the PA's jails. According to Human Right Watch, the demonstration turned into a violent clash between PA security forces and Islamic militia, leaving 14 Palestinians killed and hundreds of others wounded.<sup>272</sup>

In his analysis of the unprecedented inter-Palestinian bloodshed, PLC member Ziad Abu Amr points out that the events "...suggested that Arafat had decided...to act against Hamas because.... Israelis were pressuring him to act or risk a suspension of expanding the autonomous rule to other areas of the West Bank."<sup>273</sup> Although Abu Amr's analysis implies a decrease in Arafat's popularity among Palestinians, given the latter's support for a democratic system and rule of law, the events' aftermath indicated the opposite. A June 1995 poll stated that 60.9% of Palestinians believed Arafat to be the symbol of Palestinian nationhood, and 46.6% of Palestinians supported Arafat's party (Fatah) vs. the 18.2% that supported Hamas and 0.1-4.4% that supported other factions (like the PFLP, the DFLP, and Islamic Jihad).<sup>274</sup> This wide popular support for Arafat and his party enabled him to proceed with his current policy, and to conclude Oslo II with Israeli government.

The Oslo II, formally known as the Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip and signed in Washington on 28 September 1995, divided the West Bank into three classifications: Category A covers the areas over which the PA would have full control (e.g., administrative and security responsibilities); Category B, covers the areas over which the PA would have partial control (e.g., complete administrative responsibilities and partial security responsibilities, with

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<sup>271</sup> From <[http://www.aish.com/Israel/articles/Suicide\\_Bombing.asp](http://www.aish.com/Israel/articles/Suicide_Bombing.asp)>

<sup>272</sup> Human Right Watch <<http://www.hrw.org/reports/1995/WR95/MidEast-07.htm>>

<sup>273</sup> Ziad Abu-Amr. "Report from Palestine". In *Journal of Palestine Studies*. Vol.XXIV, no.2 (winter 1995), P.44.

<sup>274</sup> See JMCC's poll no.7 (June 1995) Online <<http://www.jmcc.org>>.

Israeli forces being allowed to enter freely into these areas); and finally Category C covers the areas over which the PA would assume neither administrative nor security responsibilities. Category C covered Jewish settlements and the bypass roads surrounding them. (Article XI).<sup>275</sup>

Moreover, a two phase of Israeli redeployment was agreed upon. The first phase included Israeli redeployment from the major cities of the West Bank (excepting Hebron, which enjoyed special privileges within the agreement and was scheduled to be redeployed by March 1996 by virtue of Art. VII of Annex I). These cities included: Ramallah, Bethlehem, Nablus, Tulkarm, Qalqilya, and Jenin. The PA was to have full administrative and security responsibilities in these cities (e.g., they fell into Category A). Also within the context of the first phase of Israeli redeployment, Israel agreed to transfer about 450 villages and towns from Category C to Category B.

The implementation of the first phase of the redeployment implied an extension of full PA control over 2% of West Bank territories, in addition to an extension of PA partial control over 26% of West Bank territories.<sup>276</sup> The second phase of Israeli redeployment included redeployment from the remaining territories of West Bank (with exceptions made regarding final status issues) according to an 18-month timetable (Art. I of Annex I). Appendix 1 of Annex I of the agreement provided for the completion of the first phase of Israeli redeployment in December 1995.

The conclusion of Oslo II marked a new phase in the peace process. Dissatisfied with the agreement, Jewish extremist Yigal Amir assassinated Israeli Prime Minister Yitzhak Rabin on 4 November 1995 as Rabin was leaving a peace rally in Tel Aviv. Asked why he committed this act, Amir responded, "Rabin wanted to give our country to Arabs".<sup>277</sup> This event, combined with Hamas' suicide bombings, revealed that the peace process had failed to change the deeply rooted hostilities that infested the Palestinians-Israeli relationship.

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<sup>275</sup> The full text of the agreement is online at <http://www.usembassy-israel.org.il/publish/peace/interim.htm>

<sup>276</sup> Edward Said, "Palestinians Under Siege", in Roane Carey (ed.) & Noam Chomsky (introd.) *The New Intifada: Resisting Israel's Apartheid*. Verso Press, 2001, p. 35.

<sup>277</sup> CNN on 7 November, 1995, online <<http://www.cnn.com/WORLD/9511/rabin/amir/11-06/index.html>>

This was not the case, however, with the relationship between Israeli and Palestinian politicians. In his comments on Rabin assassination, Arafat considered the event as “awful...where I lost one of the most important, courageous men in Israel.”<sup>278</sup> Shimon Peres, by then acting Israeli Prime Minister, vowed during Rabin's funeral “not to hesitate for peace”<sup>279</sup> and to implement those measures that had been agreed upon. In December Peres brought the first phase of the Israeli two-phase redeployment provided by Oslo II into force, and enabled the PA to extend its full/partial control over 28% of the West Bank territories.

The extension of PA rule over further territories in the West Bank recruited further Palestinian support for the peace process and Arafat's policy. At least 70,000 Palestinians welcomed Arafat's arrival to Nablus,<sup>280</sup> and a further 50,000 Palestinians welcomed his arrival to Qalqilya following the Israeli redeployment from the city. In response, some 25,000 Hamas supporters met at a Gaza Rally on 16 December 1995 and condemned Oslo II, vowing to “make the land of Palestine a graveyard for the children of Zion”.<sup>281</sup> Toward this end, Hamas suicide bombers committed two attacks on 25 February 1996, which left 25 Israelis killed, and 80 others injured. Hamas claimed that the attacks avenged the January 1996 assassination of Yahiya Ayyash (a Bir Zeit University student considered to be an innovator of suicide bombings).<sup>282</sup>

The two Hamas operations occurred just a few months prior to the Israeli May elections. The candidates nominated for Israeli premiership were acting Prime Minister Shimon Peres of the Labour party, considered the architect of peace with the Palestinians, and the Likud hard-liner Benjamin Netanyahu who was known mostly through his tough policy toward peace with Palestinians. Netanyahu's hard line was expressed by Likud Party member Uzi Landu on the eve of the election: “we'll have to put much more emphasise on our security”... “If we really want peace: no Palestinian state here”.<sup>283</sup> In Israeli public opinion, Hamas' operations only strengthened the case for taking such a tough line toward the Palestinian state. Hence Netanyahu rose to power in May 1996.

<sup>278</sup> CNN on 6 November, 1995 in *Ibid*.

<sup>279</sup> *Ibid*.

<sup>280</sup> *Al Hayat Al-Jadeeda* on 16 December 1995.

<sup>281</sup> *Jerusalem Post* on 17 December 1995.

<sup>282</sup> *Palestine Report*. Vol. 1, no.40, March 1, 1996.

<sup>283</sup> CNN on 30 May 1996, online <<http://www.cnn.com/WORLD/9605/30/israel.reax/>>

The rise of Netanyahu to power was accompanied by a growing influence of radical religious parties, which held 24 parliamentary seats after the election, increased from the 16 seats they had occupied in the pre-election era. In addition, the secular radical party Israel for Immigration won 7 seats, and the Third Way party won 4 seats. All of this further supported the government's hard-line, but created a situation in which Netanyahu (whose party had taken 34 of the 120 seats in Israeli parliament)<sup>284</sup> had to accept the conditions of these parties in order to successfully form his government. Fully aware of this fact, Netanyahu exhibited an unwillingness to honour the pledges of the former Israeli government and vowed in his victory speech not to negotiate over East Jerusalem, nor to redeploy from further territories unless the security of all Israelis was guaranteed.<sup>285</sup>

Netanyahu's statement exhibited two aspects: on the one hand it showed concern for his political future as Israel's prime minister, and on the other demonstrated the Likud party's position with regards to the peace process. For the Likud party the Oslo process implied, in its final stage, Palestinian self-rule over some Palestinian territories that are geographically unconnected and moreover surrounded by Jewish settlements under Israeli sovereignty. According to the Likud agenda East Jerusalem not up for negotiations under any circumstance, the subject constituting taboo. For Palestinians, the Oslo process or self-rule arrangements were to be the first stage toward a fully independent Palestinian state (WBGS), with the capital as East Jerusalem. Arafat stated this view very clearly in his comments on the Israeli elections and Netanyahu's security agenda:

"It is more than naive self-delusion to claim that Israel is capable of achieving peace without a full withdrawal from Palestinian and Arab territory, and without recognizing the right of the Palestinians to return to self-determination and establish an independent state with its capital in Jerusalem".<sup>286</sup>

Arafat's words seemed to have little impact on Netanyahu who, after forming his government in June, decided to resume building at the controversial Har Homa, called *Jabal* (mountain) Abu Ghuneim by Palestinians. The issue of *Jabal* Abu Ghuneim stems from Israel's Minister of Finance Isaac Moda'ee's 1991 order that at least 6,500

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<sup>284</sup> Ibid.

<sup>285</sup> CNN on 2 June, 1996. Online <<http://www.cnn.com/WORLD/9606/02/israel.netanyahu/index.html>>

<sup>286</sup> Ibid on 4 June 1996. Online <<http://www.cnn.com/WORLD/9606/04/arafat.britain.index.html>>

housing units be constructed on this mountain to settle forty thousands Jewish settlers.<sup>287</sup> Palestinian opposition to the project, backed by a veto from Israel's judiciary, deferred its implementation. With Netanyahu's assumption of power, the Israeli Supreme Court removed the legal restrictions regarding building on this mountain, and the government was given the green light to go ahead.

Consequently, Netanyahu ordered the construction of a bypass road to connect the proposed Har Homa settlement in Jabal Abu Ghneim with the settlement of Gilo, south of East Jerusalem. The settlement building in Jabal Abu Ghneim, located no less than 2 km north of Bethlehem and sized at 2 squared km, was to complete the suffocation of the city, which was already surrounded by the Etzion settlement bloc in the South, Bitar Ilite in the West, and Taqoa in the East. Furthermore, the by-pass road between Hara Homa settlement and Gilo settlement would create physical barriers between Bethlehem and Jerusalem, and thus deny Bethlehemites access to East Jerusalem.<sup>288</sup>

From a Palestinian point of view, settlement in Har Homa was a grave violation of the Oslo accords, which committed both sides not "...to take any step that will change the status of the West Bank and the Gaza Strip pending the outcome of the permanent status negotiations" (Art.XXXI.7 of Oslo II). Consequently, the Palestinians blamed Netanyahu for failing to honour the accords and called on him to stop building in Har Homa. Netanyahu, on the other hand, considered Jewish settlement in Har Homa a natural right for Jews not prejudiced by any agreement, and called Palestinians to account for failing to do their utmost to thwart the Hamas and Islamic Jihad networks. Indeed, Netanyahu went even further and called on the PA to denounce the PLO's charter naming Israel's destruction as a pre-condition for any further Israeli redeployment from the West Bank. The PA considered Netanyahu's demands unreasonable, since the PA's involvement in the peace process with Israel already implied the PA's denouncement of the PLO charter. Consequently, the PA interpreted the demand as another attempt by Netanyahu government to destroy the peace process.

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<sup>287</sup> See the Applied Research Institute. "The Har Homa Settlement and the Uprooting of Abu Ghnaim Forest". Jerusalem: March 1997, online <<http://www.arj.org/paleye/abughnam/>>

<sup>288</sup> *Ibid.*

As each side insisted on blaming the other for the failure to honor the agreements, mistrust intensified and clashes broke out on 24 September 1996, leaving no less than 68 people killed, 54 Palestinians and 14 Israelis and hundreds of others injured according to a CNN report made on 28 September. These clashes broke out specifically in the aftermath of the Israeli decision to open a tourist tunnel near Al Aqsa Mosque. Palestinians perceived the decision as an Israeli attempt to tighten control over Jerusalem, which was, according to Arafat, “an escalation by the Israeli government against our people”.<sup>289</sup> Netanyahu denied Arafat’s claim, asserting the “tunnel...does not harm to the holy places and ...expresses our sovereignty in Jerusalem”.<sup>290</sup> Both sides therefore expressed unwillingness to end the crisis peacefully. However, as the clashes escalated to endanger the whole process of Oslo, both leaders responded to international and US demands to halt hostilities and resume peace talks. Accordingly, a USA-sponsored summit was convened in early October, and proclaimed the end of the crisis and the resumption of the peace talks.

This summit paved the way for both sides to conclude the Hebron Protocol on 15 January 1997. The protocol, elaborated in article VII of Annex I of Oslo II, enabled the PA to assume control over 80% of the Hebron city whilst simultaneously leaving Israel to control an enclave of 400 settlers and 20,000 Palestinians.<sup>291</sup> With the conclusion of the Hebron Protocol, both sides showed interest in denouncing the violence and keeping the peace process alive, notwithstanding their conflicting perceptions of this process.

However, the process quickly entered another stalemate as result of Netanyahu’s policy, which turned its back on the former Israeli government pledges observed by Art.I of Annex I of Oslo II. These provided for Israeli redeployment from the remaining territories of the West Bank by no later than March 1997. Netanyahu’s failure to fulfill the pledge of the former Israeli government was accompanied by an escalation of settlement building expressed by a 25% increase of the West Bank’s settlers and a 6% increase of Jerusalem’s settlers during the period of 1996-1999

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<sup>289</sup> CNN on 25 September 1996. Online <<http://www.cnn.com/WORLD/9609/25/israel.clash.update/>>

<sup>290</sup> Ibid on 28 September 1996. Online <<http://www.cnn.com/WORLD/9609/28/israel.palestinians/index.html>>

<sup>291</sup> Figures according to PA official webpage, <[http://www.pna.gov.ps/Government/gov/oslo\\_peace\\_process.asp](http://www.pna.gov.ps/Government/gov/oslo_peace_process.asp)>

(1999 being the year when Netanyahu left office),<sup>292</sup> and the bulldozing of some 1,000 *dunoms* in the Gaza Strip for settlement purposes in the same period.<sup>293</sup> Most notable was the resumption of settlement construction in Har Homa, following the March Hamas suicide bombings that left three Israelis dead and another forty-eight wounded.<sup>294</sup>

Hamas' new suicide bombings put the PA on the defensive, and enabled Netanyahu to justify his settlement activities and to launch an offensive campaign against the PA aimed at displaying the it's failures to denounce violence and fulfill its commitment to the peace agreements; "the Palestinian authority has not rescinded the Palestinian Charter calling for our destruction. It has not fought terrorism. It has not stopped the incitement against Israel..."<sup>295</sup> Netanyahu's argument followed that, because of this, the PA was no longer qualified to assume rule in further territories in West Bank. Under this justification, Netanyahu considered his government to be no longer bound by the former Israeli government's pledges as stated in Oslo II.

Netanyahu's campaign was not restricted to claiming the PA's failure to fulfill it's commitments in the political agreements, and also extended to assert the PA's failure to respect human rights and rule of law; "I think it is ghastly, monstrous to issue a law which says who sells land to Jews executed...this is...a racist law, a Nazi law". Netanyahu was pointing to the announcement made by the PA's Minister of Justice Freih Abu Medein on 6 May 1997, in which the death penalty was assigned to any one convicted by a Palestinian court of selling land to Israelis. The announcement was made after it had been discovered that about 70% of the land in the Har Homa project was purchased by Jews before 1948 or after 1967.<sup>296</sup>

The PA, consequently, sought to defend Palestinian land. In the words of Arafat "our law is a Jordanian law that we inherited which applies to both the West Bank and Gaza, and sets the death penalty for those who sell land to Israelis. It is our right to

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<sup>292</sup> B'tselem. *Land Grab: Israeli Settlement Policy in the West Bank*. Israel, May 2000, Pp.13-14.

<sup>293</sup> Figures according to Palestinian Centre for Human Rights' 1997 annual report (Pp.21-23), and 1998's annual report (Pp.27-30), and 1999's annual report (Pp.54-56). Online <<http://www.pchrgaza.org>>.

<sup>294</sup> Figure according to <[http://www.ict.org.il/inter\\_ter/orgattack.cfm?orgid=13](http://www.ict.org.il/inter_ter/orgattack.cfm?orgid=13)>

<sup>295</sup> *Jerusalem Post* on 20 May 1997.

<sup>296</sup> *Ibid*, on 6 May, 1997.

defend our land”.<sup>297</sup> On 30 May Mahmoud Ali Jambour, from Jerusalem but with an Israeli ID card, was found shot twice in the head in the south of Ramallah. Jambour was accused of selling a house in Jerusalem’s mixed Jewish-Palestinian Abu Tor neighborhood to a Jewish organization, and was the third Palestinian to be murdered in the same month for reportedly selling land to Israelis.<sup>298</sup>

The murders of these Palestinians, which were attributed to PA security forces, made Arafat vulnerable to the criticisms of the Clinton administration, whose State Department spokesman Nicholas Burns considered these acts “...contrary to what must prevail in the Middle East, which is peace” and called upon Arafat “to stand up for the rule of law...and defend it in what he says and in what he does.”<sup>299</sup> Ironically, no mention was made of the tens of Palestinians from the Islamic opposition and national factions who had been held in the PA’s various detention centers since 1994, mostly without charge or trial.<sup>300</sup>

These prisoners, detained in massive waves of arrests carried out in the aftermath of each suicide bombing, were subjected to various forms of torture during interrogation that included shackling, sleep deprivation, and *Shabah* (standing or be shackled to a chair).<sup>301</sup> Mostly they were detained under Israeli and American pressure. The developments that followed the conclusion of the Wye-River Memorandum<sup>302</sup> should confirm this fact.

The memorandum, signed in Washington on 23 October 1998, provided for PA full/partial control over a further 13% of West Bank territories — 1% as area “A”, 9% as area “B”, and 3% as Natural reserves — and the transference of 14.2% from area “B” to area “A” (Art. I). However, the memorandum conditioned the PA’s assumption

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<sup>297</sup> *Yediot Ahronot* on 21 May, 1997.

<sup>298</sup> *Jerusalem Post*, on 1 June, 1997.

<sup>299</sup> *Ibid.*, on May 22, 1997.

<sup>300</sup> On 20 August 1997, for instance, the Israeli daily the *Jerusalem Post*, drawing on a report published by the Palestinian Human Rights Monitoring Group (PHRMG), confirmed that no fewer than 125 Palestinians had been detained for a year without charges being filed against them. See *Ibid.*, on 20 August 1997.

<sup>301</sup> See Human Rights Watch’s Report “Torture and Physical Abuse By the Security Services”. Online <<http://www.hrw.org/reports/1997/palestina/Israel-05.htm>>

<sup>302</sup> The full text of the memorandum is online <<http://www.usembassy-israel.org.il/publish/peace/october98/102398b.html>>



of control over these territories by making it necessary for the organisation to bring the level of violence to zero. Toward this end, the PA was obliged to develop an anti-terror work plan, to collect illegal weapons, to promulgate an anti-incitement decree, to exchange intelligence with Israel, and to amend the PLO charter that called for Israel's destruction. To ensure the PA's fulfilment of these obligations, two US-Palestinian committees were set up. One agreed to meet every two weeks "to review steps...taken to eliminate terrorist cells", and the other was to review PA's steps to punish terrorists (Art. II, A.1).

In addition, three trilateral US-Palestinian-Israeli committees were agreed upon. The first was to review steps taken by the PA to prevent the proliferation of illegal weapons in the Palestinian autonomous areas, while the second was to monitor incitement. The third committee, which agreed to meet every two weeks, was to exchange intelligence and identify terrorist threats (Art. II, A.2, 3, B.3). Moreover, the PA was obliged to call for a wide PNC meeting with the aim of amending the clauses of the PLO charter that called for Israel's destruction (Art. II, C.2). It was agreed that President Clinton would address the PNC meeting. In addition, the memorandum called on both parties to resume the final status talks as soon as possible, so that an agreement over the final status issues could be concluded no later than 4 May 1999 (Art. IV).

Furthermore, the memorandum set a timetable of 12 weeks for its implementation according to three phases. The first phase was due to begin two weeks after the signing of the memorandum. In this phase, Israel would transfer 2% of land from area "C" to "B", and 7.1% from "B" to "A". In exchange, the PA would survey illegal weapons, develop an anti-violence work plan, and join the anti-incitement trilateral US-Palestinian-Israeli committees. The second phase was due to begin in weeks 2-6. In this phase, Israel would transfer 5% from areas "C" to "B". In exchange, PA would collect the identified illegal weapons, amend the PLO charter that called for Israel's destruction, and provide Israel with a list of its policemen. The third stage was set to occur in weeks 6-12. In this phase, Israel would transfer 5% from area "C" to "B", and 1% from "C" to "A", and 7.1% from "B" to "A" (see attached memorandum).

The memorandum heavily emphasized security cooperation and, under full American sponsorship, left wide scope for human rights and public freedom violations to occur under the auspices of fighting terror. The fact that terms like “terror combat” and “violence” were left ill defined by the memorandum meant conflicting interpretations of these terms would be possible, if not inevitable. Consequently, it became unclear whether acts of national struggle, which are legitimate under International law, would be included in the term “terror” as it was used in the memorandum or whether the term “terror” was confined only to “suicide bombings”. Furthermore, would the term “terror” include suicide bombings against Israeli military targets, or would it only cover those carried out against Israeli civil targets? What would be the case, for instance, if a Palestinian committed a suicide bombing against an Israeli military outpost in WBGS?

Sa’eb Erekat denied that the memorandum implied any restrictions over the opposition activities, and also denied that it implied any obligation on the part of the PA to outlaw Hamas and Islamic Jihad. Muhammad Dahaln, who headed the Preventive Security Forces in Gaza, went even further and denied that the term “terror combat” obliged the PA to alter their intelligence as far as Hamas and Islamic Jihad were concerned, stating rather that it obliged the PA to alter its intelligence with respect to the number and positions of PA security forces: “we have no problem providing one list of policemen and another list of policemen who do administrative work and are unarmed.”<sup>303</sup>

The Israeli perception of the memorandum, as expressed by Netanyahu, was certainly differed from that of the Palestinians; Israelis considered it a means to “block ...many of the holes in the ‘Swiss cheese’ of Oslo”.<sup>304</sup> For Israelis, therefore, the memorandum was to serve as an instrument to achieve 100% security, and would treat the deficits in Oslo II (from Israeli point of view) that enabled Palestinian opposition factions to keep their military infrastructure and thereby enabled them to launch some 463 attacks on Israeli targets in 1997 alone (according to Ami Ayalon, the head of Israel’s Security Services).<sup>305</sup>

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<sup>303</sup> *Jerusalem Post* on 30 October 1998.

<sup>304</sup> *Ibid* on 26 October, 1998.

<sup>305</sup> *Ibid* On 11 March 1998.

Consequently the PA, from an Israeli point of view, was obliged to stop any further attacks on Israeli targets (militant and civil) and to establish 100% security for Israelis. Of course neither the PA nor any state in world could achieve 100% security. It seems most unlikely that Israel was not fully aware of this fact, and therefore also seems that Israel sought to drive Palestinians to civil war (particularly in light of the Israelis full awareness of the absence of a Palestinian national-wide consensus regarding the Oslo process in general, and the memorandum in particular).

For instance, in response to the memorandum, Hamas's leader Ahmad Yassin declared his movement's determination to keep launching attacks at Israeli targets, notwithstanding the possible obstacles that might be set for the movements' activities by the memorandum. Nayef Hawatmeh, the Secretary General of DFLP, warned of the negative repercussions of the memorandum on inter-Palestinian relations, while the Secretary General of PFLP George Habbash considered it a plan to keep Israel's security.<sup>306</sup> These Palestinian factions continued to believe in the right of Palestinians to combat the remaining parts of the occupation in WBGS, and some of them, particularly Hamas, considered every Israeli a target regardless of their status (e.g., armed forces or civil). Every Israeli, according to Hamas, was a potential soldier who could come one day to WBGS and kill Palestinians. Due to all of this, Hamas considered itself not to be bound by any law or agreement as long as Israeli occupation remained on WBGS.

On 29 October 1998 a suicide bomber blew himself up on Israeli bus occupied by Jewish settlers travelling south of Gaza City. The attack left one Israeli dead and others injured. Arafat, concerned Netanyahu might refrain from meeting his commitments to the memorandum, condemned the attack and expressed suspicions over its goals; "the attack serves the goals of Israeli extremists who kill our people and stand opponents to our right to get our land back".<sup>307</sup> In a step which sought to exhibit the PA's full determination to fulfil its commitments as stated in the memorandum, Arafat ordered his security forces to impose house arrest on Hamas leader Yassin, and to arrest no less than 160 Hamas leaders, supporters and other

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<sup>306</sup> *Al-Quds Al-Arabi* on 24/25 October 1998

<sup>307</sup> *Ibid*, On 30 October 1998.

Islamic activists.<sup>308</sup> The wave of arrests jailed at least twelve top Hamas leaders and opposition activists.<sup>309</sup>

Some of these detainees, who were denied legal defence, were tried before the State Security Court and were primarily sentenced for long-terms. As an example of such practice, on 19 January 1998 two Hamas members Nassim Abu al-Ras and Jasser Samaru were sentenced by the State Security Court in Jericho to 15 years of hard labour for their involvement in the preparation of various suicide bombings against Israeli targets. Human rights lawyer Moussa Shakarm denounced the trial and the sentence, declaring them serious violations of human rights.<sup>310</sup>

Shakarma's comments to the court reflected his deep awareness of the unfair trial. The court had been founded on 16 February 1995, when Arafat issued his decision number 49 concerning the establishment of the State Security Court. The court typically functioned in a manner that contradicted the criteria of fair trial and legal procedure, including the right to appeal and the right to legal representation. Trials in these courts usually occurred at night and their sentences, mostly long-term or in some cases death sentences, were passed and executed immediately; its mandate was to handle cases involving national security.

The structure and the legal bases of the Palestinians State Security Court seemed to serve this purpose. At the head of the court stood Brigadier Abdel El Fatah Ramadan Al Ja'idi, and additional members were Colonels Hamdi El Rifi and Muhammad Karamah Issa, and the Judge Abdel Karim Musa Salman El Masri.<sup>311</sup> To handle the related national security cases the court invoked the British Emergency Regulations of 1945, which were also invoked by Israel to oppress Palestinians throughout year 28 of its occupation of WBGS.

### ***The Detachment of the PA from Society: The PA against Civil Society***

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<sup>308</sup> According to "Palestinian Human Rights Monitoring Group" online  
<<http://www.phrmg/PHRMG%20Documents/Political%20Arrest/English/1.htm>>

<sup>309</sup> PCHR's Press Release on 30 October 1998.

<sup>310</sup> *Jerusalem Post* on 20 January 1998.

<sup>311</sup> See *Al Waqaea'*, op.cit., No.4, 2<sup>ed</sup> Year, 6/5/1995.

The detention of opposition members, coupled with the establishment of the State Security Courts, was a clear indicator of the PA's acquiescence to Israeli interpretations of incitement and terror and the PA's gradual detachment from Palestinian society and its investments in the peace process as the source of its legitimacy. This fact was evident in the measures taken by the PA against civil society.

Though *civil society* is among the most confusing of social terms, Gramsci's conception of it might be the most constructed. In Gramsci's perception, civil society is the sphere of social activities located outside the spheres of coercive relations (state) and production relations (economy).<sup>312</sup> In this sense civil society comprises NGOs, professional associations, women's organizations, religious institutions, political parties, and other similar group-based social activities. Our understanding of the term includes the sphere of social activities that neither seeks political power nor economic profit. In this sense, political parties are excluded from civil society, and the term civil society is confined to NGOs, intellectuals, journalists, and professional associations. This sphere of social activities was the subject of various PA attempts to abrogate its developments and harass its leaders. The State Security Court, for instance, was used not only to try and stop the opposition from infringing on national security, but also to obstruct NGO representatives as well as intellectuals who stood in opposition to PA policies.

On 18 May 1996 Dr. Iyad Saraj, a human rights activist and head of the Gaza Community Mental Health Programme, was arrested for having written an article (published in the *New York Times*) that criticised the PA. Dr. Saraj, who was detained for a week before being released, was arrested again on 10 June under the charge of "drugs' possession", before the Magistrates court ordered his release on bail on 13 June due to lack of evidence. However, without prior notification given to him or to his legal representation, the State Security Court decided to keep him under arrest until 26 June, when he was finally released.<sup>313</sup> Mohammed Dahman, a prominent public figure in Gaza and head of the *Addameer* Prisoner Support Association, was arrested on 12 August 1996 for having issued a press release condemning the death of

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<sup>312</sup> Roger Simon. *Gramsci's Political Thought*. London: Lawrence & Wishart, 1982, Pp.68-69.

<sup>313</sup> PCHR's Press Releases on 27 May & 10, 13, 26 June, 1996. Online <<http://www.pchrgaza.org>>

a Palestinian in a PA detention centre on 27 July 1996. On 15 August he was brought before the State Security Court and his detention was extended until 27 August, when he too was released.<sup>314</sup>

In a similar case Fathi Soboh, a Gaza Professor of Education at Al-Zahar University, was arrested on 2 July 1997 by Preventive Security Forces for assigning examination questions that asked the students to analyze the corruption of and within PA institutions.<sup>315</sup> The detention of El Saraj, Dahman, and Soboh, all of whom were brought before the State Security Court, reflected a wider policy of the PA which sought to restrict public freedoms and basic rights.

This policy had been legally initiated when Ghazi El Jabali, head of Civil Police, declared (on 9 September 1994) a military order prohibiting those political meetings that took place without a permit obtained in advance from him.<sup>316</sup> The policy was consolidated when Arafat ratified the “Law of Press” on 25 June 1995. The law, which comprised 51 articles, covered all aspects of publication, beginning with the definition of freedom of expression, continuing through to regulations pertaining to license issuance for any publication, and ending by stating sanctions to be imposed on persons who violated the law.

Of greatest concern are articles VII and VIII of the law. The former prohibited, among other things, the publication of materials that contradict principles of freedom, national security, human rights, and respect of truth; “It is inadmissible to publish in the printed publication any materials which may contradict with the principle of freedom, national responsibilities, human rights, and respect of truth”. The later article included a code of conduct for journalists; “to refrain from publishing whatever may instigate violence, fanaticism, and hatred, or invites racism and sectarianism”.<sup>317</sup>

The chief problem of these articles is their lack of any clarification regarding the term *national responsibilities*. The vague nature of the terms enabled the PA to enjoy a

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<sup>314</sup> *Ibid*, on 14, 18, 27 August 1996.

<sup>315</sup> *Ibid*, on 12 July 1997.

<sup>316</sup> El Fassed, op.cit., P.20.

<sup>317</sup> Translated from the official Arabic text of the law in *Al Waqaea'*, op.cit., No.6, 2<sup>nd</sup> Year, 29/8/1995.

great deal of space in which to maneuver, and consequently allowed it — under the auspices of preserving national security — to commit grave violations against people's basic rights, including their right to freedom of expression. The PA, backed by the continued presence of the Israeli occupation in a large part of WBGS territories, was able to justify its practices with a preoccupation with the national agenda and the battle to liberate the remaining territories of WBGS. Thereby it could attack those who called for democratic transformation and accuse them of lack of patriotism.

“Struggle against enemy” was thus the chief slogan used by the PA to justify its anti-democratic practices. This slogan, typical of a one-party system (as Samuel P. Huntington observes),<sup>318</sup> was the blanket used to stifle some Palestinians, e.g., blocking the opposition members’ access to politics. The PA, which entrusted itself with the right to decide what legitimate or illegitimate political action was, considered itself as having the ultimate power to decide who should be included and excluded from politics. Those who were included were the ones who supported the peace process upon which the PA legitimacy relied.

This policy of inclusion/exclusion also covered issues related to freedom of expression. Opinions supporting the PA were strongly encouraged, while those opposing it were discouraged, if not prohibited. Usually such discouragement or prohibition was legally institutionalized through various laws and regulations, such as the press law mentioned above. The law, for instance, presented the PA with the pretext to detain and summon some 70 journalists, and to close or ban publishing some 15 licensed newspapers or press offices in the period of 1995-1998, according to the Gaza-based Palestinian Centre for Human Rights.<sup>319</sup>

In most of these cases, journalists with a background of publishing articles that criticized the PA were routinely subjected to interrogation, and some were tried by the State Security Court. Among the most notable of these cases was that of Sayyed Salem Abu Musameh, editor of the pro-Hamas periodical *Al Watan* (homeland);

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<sup>318</sup> Samuel P. Huntington. “Social and Institutional Dynamics of One-Party Systems”. In Samuel P. Huntington & Clement H. Morre (eds.). *Authoritarian Politics in Modern Society: The Dynamics of Established One-Party Systems*. New York/London: Basic Books, 1970, P.13.

<sup>319</sup> See PCHR. *the Right to Freedom of Expression*, op.cit., Pp.28-51.

Sayyed Salem Abu Musameh was brought before the State Security Court on 13 April 1995 and sentenced to two years on charges of incitement. On 9 July Ala' Mashharawi, a Journalist for the *El Quds* daily, was arrested for ten days for having published a report critiquing the torture measures adopted by Palestinian security forces against Hamas and Islamic Jihad prisoners. On February 17 1996 Ala' Saftawi, chief editor of the pro-Islamic Jihad periodical *Al Istiqlal*, was arrested by Palestinian security forces for publishing an article criticizing Arafat's rule.<sup>320</sup>

These measures made journalists' jobs considerably more difficult, and left them terribly exposed to PA sensitivities and reactions toward what they wrote. Preoccupied with possible harassment from the PA, and at the same time unaware of what the PA liked or disliked, journalists began to self-censor at the expense of innovation, thinking, and genuine analysis. According to a West Bank journalist who had been arrested and interrogated on the background behind his press activities:

“There are ‘red lines’ that no one is supposed to cross. What I understand from these red lines is that they are elastic. Their understanding (PA security forces) is mysterious. I do not understand what is forbidden and what is allowed anymore. Every time I write or compose something, I start thinking whether I will be caught... Journalism and the life of Journalists become difficult and full of worries.”<sup>321</sup>

The “red lines” hinted at by this journalist proliferated, and became more elastic with the conclusion of the Wye-River Memorandum, which committed the PA to prohibit all forms of incitement and violence. Under the umbrella of this memorandum, the PA not only managed to oppress the opposition opinions, it also managed to restrain those who were seeking to transmit opposition activists’ views over political events to the public (e.g., journalists). On the same day the memorandum was signed, 11 Palestinian and international Journalists were arrested by the Palestinian security forces as they tried to interview the Hamas leader Yassin about his reaction to the memorandum. Brigadier-General Abu Ahmd, from the police criminal investigation department, told the journalists that they “...would require permission to cover political or security issues”.<sup>322</sup>

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<sup>320</sup> Ibid.

<sup>321</sup> Journalist's testimony on the webpage of Palestinian Human Rights Monitoring Group <<http://www.phrmg.org/PHRMG%20Documents/Political%20Arrest/English/fayyad.htm>>

<sup>322</sup> *Jerusalem Post* on 25 October, 1998.



The PA's harassment of journalists was further institutionalised by the issuance of the so-called Executive Regulations by the General Information Agency. By virtue of these regulations the agency, which was established as an independent body by virtue of presidential decision no. 41 in 1996,<sup>323</sup> was empowered with the rights to issue licences for foreign and local correspondents and to regulate press activities in the PA autonomous areas. These regulations, said to be formed on presidential verbal directive, seemed to add new restrictions to those provided for by the 1995 press law, with the aim of achieving full control over the right to freedom of expression. Yasser Abed Rabbu, Minister of Information, criticized these regulations as "damaging to the reputation of the PA and transforming it into oppressive intelligence authority that restricts the movement of foreign correspondents".<sup>324</sup>

Though it is not clear whether these regulations were brought into force or not, their issuance under presidential sponsorship reveals a formal and deliberate trend of intensifying restrictions over the freedom of expression. This trend was further consolidated by Arafat's promulgation of an "anti-incitement & violence" decree on 19 November 1998. The decree, which aligned with those PA commitments stipulated by the Wye-River Memorandum, is considered to be the most prominent legal expression of the PA's caving to Israeli and American pressure, and of the PA willingness to risk its relationship with its own society for the sake of the peace process. Among other things, the decree designated the following acts as being illegal:

"Instigation towards racial discrimination and encouraging acts of violence that violate the laws; insulting various religions or using violence or *instigation to use violence that harms the relations with brotherly and foreign countries*; forming illegal associations that exercise or instigate towards crimes and abusing life and incite masses toward riot or internal conflict or breaching agreements held between *PLO and brotherly or with foreign countries* (Italics added).<sup>325</sup>

A careful reading of the decree reveals many deficits as far as the rights to freedom of expression and peaceful assembly are concerned. To start with, there is no doubt that opinions of racial and religious discrimination should be prohibited, and that their institutional expression should be outlawed. The problem with this decree begins with

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<sup>323</sup> *Al Waqaea'*, op.cit, No.2, 3<sup>rd</sup> Year, 23/4/1996.

<sup>324</sup> PCHR's Press Release on 7 November 1998.

<sup>325</sup> Translated from the Arabic text of the decree cited in *Al Waqaea'*, op.cit., No.26, 5<sup>th</sup> Year, 26/11/1998.

the paragraph related to the “instigation to use violence that harms the relation with...foreign countries...and agreements held between PLO and... foreign countries”. It seems most unlikely that the paragraph addresses any country but Israel. Even if the paragraph meant foreign countries in general, this would still include Israel.

Consequently the question which vividly emerges is: are opinions that support acts of national struggle considered to be the instigation to violence mentioned in the decree, and thus are they outlawed? Or is the term ‘instigation to violence’ confined only to opinions supporting suicide bombings? And if the term is confined to suicide bombings does it include those suicide bombings carried out against Israel’s military targets? Furthermore, are the opinions of the opponents of the Oslo process and its power-balance logic a form of incitement or otherwise? In addition, what are the parameters of the political agreements held between the PLO and foreign countries? Are these agreements confined to the Oslo accords, or do they include all the agreements the PLO had signed with other foreign countries since its establishment in 1964?

All of these issues were left vague by the decree in a manner that left all options open to the PA to decide what measures to take toward society, according developments in the peace process and its own interests. The decree, for instance, was issued around the same time that Israel completed the first phase of its redeployments stipulated by the Wye-River Memorandum (on 20 November, Israel transferred 2% from area “C” to “B”, and 7.1% from “B” to “A”).<sup>326</sup> But later on 1 December, the Israeli Ministry of Housing declared a plan to build 450 housing units in the Kohaf Yakuf settlement, east of Ramallah. Arafat considered the plan a grave violation of the memorandum, and threatened a unilateral declaration of a Palestinian state on 4 May 1999.<sup>327</sup>

In response, the Israeli government threatened to annex WBGS and announced its cessation of the implementation of the second phase of redeployments scheduled for 18 December by the memorandum. Nabil Abu Rudinah, Arafat’s political advisor, denounced Israel’s threat to annex WBGS and considered it a “sign of Israel’s

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<sup>326</sup> *Al-Quds Al-Arabi* on 25 November 1998

<sup>327</sup> *Ibid* on 2 December 1998.

underestimation of the political agreements, and of the international and American efforts exerted to save the peace process”.<sup>328</sup>

With this deadlock, the PA became willing to exhibit a more accommodative attitude toward society. On 23 December 1998, Arafat lifted the house arrest on Yassin and on 28 December he announced law no. 12 concerning peaceful assembly. The law, comprising nine articles, worked in parallel to democratic standards concerning the right to peaceful assembly. Article 4 of the law, for instance, denied the police any right to intervene in any peaceful demonstration, except to determine the track and time of this demonstration for traffic purposes. This article — backed by art. 3, which denied police any right to permit or prohibit any peaceful demonstration<sup>329</sup> — is considered a qualitative step toward consolidating public freedoms and civil rights.

The removal of the house arrest on Yassin plus the law of peaceful assembly seemed gestures made not only against the deadlock of the peace process, but also against the civil society’s criticisms of the PA’s detention of tens of Palestinians who had set fire to American and Israeli flags to express opposition to the Joint American-British air-raids on Iraq on 16 December 1998. Alongside the detention of these Palestinians, three Palestinian Radio and Television stations (Al Nasser, El Wattan, and Love & Peace stations) were closed after being accused of broadcasting anti-American programmes.<sup>330</sup> At that time, the PA considered these acts to be harmful to its relations with the American administration, relations that gained strong momentum in the aftermath of Clinton’s historical visit to Gaza on 14 December, at which time the American President addressed some 450 members of the PNC who had gathered at the Gaza-based Rashad El Shawa Cultural Centre to amend the PLO charter.<sup>331</sup>

However, the civil society’s criticisms of the aforementioned measures forced the PA to adopt some accommodative laws and measures, like the law of peaceful assembly and the lifting of the house arrest on Yassin. Nevertheless, these laws and measures did not imply that the PA was yet responsive to public will, nor did they imply that it

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<sup>328</sup> *Ibid* On 9 December 1998.

<sup>329</sup> Translated from the Arabic text of the law cited in *Al Waqaea’*, op.cit., No.28, 6<sup>th</sup> Year, 13/3/1999.

<sup>330</sup> Palestinian Society for the Protection of Human Rights and Environment (LAW)’s press release on 18 December 1998. Online <<http://www.lawsociety.org>>

<sup>331</sup> *Financial Times* on 15 December 1998.

was willing to attach itself to society as the source of its legitimacy. The PA continued to consider the peace process to be the ultimate source of its legitimacy, and was prepared to risk its relation with society for the sake of this process.

The way the PA received the result of the Israeli election of May 1999, when the Labour-hawk Ihud Barak took office via a 13% victory over Israel's Prime Minister Netanyahu,<sup>332</sup> and the measures that had been adopted toward society afterwards, substantiate our analysis. On the background of this election, the Palestinian leadership had refrained from the *de jure* declaration of a Palestinian state scheduled for May 1999, with the justification of a possible renewal of the peace process and as an attempt to not enable Netanyahu to use such a declaration in his election campaign.

When Ihud Barak took office — in spite of Barak's declaration that he did not intend to negotiate over Jerusalem, did not intend to dissolve the settlements in the West Bank, and would not respect the pre-1967 borders<sup>333</sup> — the PA received the results of the Israeli election with an optimism based on the assumption that Barak's declaration concerning Jerusalem, settlements, and borders, was no more than propaganda to increase his leverage in the final status talks. Hassan Asfour, by then the PA's Minister of State, declared that the Barak victory "had removed a political nightmare represented by Netanyahu and his "terrorist coalition". Sa'eb Erekat, the chief Palestinian negotiator, considered the Barak victory a new start for the peace process; "it is better to deal with a hard negotiator instead of dealing with non-negotiable one (Netanyahu)".<sup>334</sup>

The rise of Barak to power therefore from the PA's point of view, gave the peace process a new momentum and hence a new impetus for its legitimacy. In such situations the PA tended to quickly attach itself to the peace process, and to be more oppressive toward its own society to prove to other side (Israel) it's eligibility to rule Palestinians and so consequently to assume control over further territories. On 6 August 1999, accordingly, three top Hamas leaders Abdel Aziz Al Rantisi,

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<sup>332</sup> BBC on 18 May, 1999, online <[http://news.bbc.co.uk/2/hi/middle\\_east/346512.stm](http://news.bbc.co.uk/2/hi/middle_east/346512.stm)>

<sup>333</sup> Ibid.

<sup>334</sup> *Al-Quds Al-Arabi* on 19 May, 1999.

Mohammad Namer Hamdan, and Ismail Abu Shanab were arrested by Palestinian security forces and detained without charge.<sup>335</sup>

The arrest of these leaders occurred simultaneously with a wide-scale campaign against the civil society's organizations, in particular against human rights organizations that opposed the PA's illegal arrest campaigns. The campaign was initiated when, in early June, the PA set up a ministerial committee to report on Palestinian NGOs. The report was to serve as a foundation on which a future law concerning the NGOs would be drafted. Following the PA's formation of the ministerial committee (whose report has not been made public until recently), the PA's Minister of Justice Freih Abu Medein accused Palestinian NGOs of politicisation and financial mismanagement.<sup>336</sup>

Abu Medien's accusation came close on the heels of a report published by the Office of United Nations Special Coordinator in the Occupied Territories in May 1999, in which no less than 100,725,612 USD was said to have been distributed by donors to the rule of law sector since 1994. The report pointed out fifteen separate sub-sectors, which make up the building blocks of the rule of law sector that had benefited from this aid. The sub-sector which benefited the most were the Palestinian NGOs, which received the highest portion (16.7%, or 16,864,421 USD), in comparison to 15% or (15,083,692 USD) to the Palestinian Legislative Council (PLC), 14% to the Judiciary (14,101,585 USD), and 2.2% to the Ministry of Justice (2,217,580 USD).<sup>337</sup> To some extent, the campaign was part of the PA's attempts to monopolize aid distribution, and to deny NGOs — most of which had absorbed ex-members and supporters of leftist factions (e.g., the PFLP and the DFLP) — any financial autonomy.

Against this background, Khalil El-Zebin — who was Arafat's advisor on the media and editor of the bi-monthly of *Al-Nashrah* magazine published by the Presidential Office — wrote an article in June 1999 accusing some human rights activists, including the Director of the Palestinian Centre for Human Rights Raji Sourani and

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<sup>335</sup> PCHR's Press Release on 26 August 1999.

<sup>336</sup> LAW's Press Release on 14 June 1999.

<sup>337</sup> Office of UN Special Coordinator in Occupied Territories. "Rule of Law Development in the West Bank and Gaza Strip Survey and State of the Development Effort". May, 1999, Pp.11-12. Online <<http://www.arts.mcgill.ca/programs/polisci/faculty/rexb/unsco-ruleoflaw>>

the Director of the Law Institute Khadir Shikrat, of being paid hundreds of thousands of US dollars by Western powers in exchange of their “dirty role” of infringing on national security under the pretext of defending human rights and the rule of law. The PA's daily Al-Hayat Al-Jadeeda made a similar accusation in the same month.<sup>338</sup>

Human rights organizations, alongside other NGOs, considered the campaign part of that PA policy which sought to undermine their role in defending Palestinian human rights, to strengthen national unity, and support the steadfastness of Palestinians in their battle against the occupation.<sup>339</sup> Therefore they called President Arafat to ratify a law on behalf of the NGOs as a means to secure their legal protection. The law, which constituted a major controversy between the PLC and NGOs on the one side, and the PA on the other, was passed in its third reading by the PLC in December 1998.<sup>340</sup>

The third reading was passed by the PLC after Arafat refused to ratify the second reading of the law passed by the PLC in July of the same year. Arafat's refusal to ratify the second reading constituted a clear violation of the PLC's Standing Order, which in article 68 provides thirty days for Arafat to ratify or comment on any law passed by the PLC in the second reading. In the case that these thirty days passed without statement from Arafat, the PLC was legally obliged to enact the law.<sup>341</sup> The PLC refrained from such a step, and instead passed a third reading to Arafat for ratification.

Once again, Arafat refused to ratify the law within the due legal period and, more importantly, rejected article 4 of the law that empowered the Ministry of Justice to licence any NGO in the PA's autonomous areas. Arafat demanded the Ministry of Interior be empowered with this right. Arafat's demand was rejected by the PLC in its fifth session of the forth term on 22 May 1999.<sup>342</sup> Instead, the PLC insisted the Ministry of Justice act as the point of reference for any NGO. The PLC's position

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<sup>338</sup> See Nina Sovich. “Seven Days: Legal bombshells in Palestine, live bombs hit Beirut.” In *Palestine Report*. Vol.6, no.2, July 2, 1999.

<sup>339</sup> LAW and PCHR's press releases on 5 August 1999.

<sup>340</sup> Minutes of Palestinian Legislative Council Third Term's sessions (March 1998-March 1999).

<sup>341</sup> “PLC's Standing Order” on PLC's webpage <[http://www.pal-plc.org/ENGLISH/plc\\_stnorder\\_html](http://www.pal-plc.org/ENGLISH/plc_stnorder_html)>

<sup>342</sup> Minutes of Palestinian Legislative Council Forth Term's sessions (March 1999-March 2000).

enjoyed the support of Palestinian NGOs, for whom contribution to PLC's version of the law was significant during the meeting held between NGOs representatives and members of the PLC's political committee in Al-Bireh and Ramallah on 20 July 1998 (the meeting being held to discuss the first reading of the law).<sup>343</sup>

Nevertheless, the debate over the law was settled when Ahmed Qrieh (better known as Abu Ala') announced during a special session convened on 12 August 1999 by the PLC to discuss the PA's 1999 budget that the law would incorporate Arafat's comments regarding force. However Qrieh, by then the PLC's Speaker, claimed that the voting on Arafat's comments which had taken place during the 22 May session was insufficient; only 37 members out of the 50 who attended that session had vetoed the comments, making the vote unsuccessful for lack of the necessary absolute majority (half of the 88 PLC members + 1) stipulated in article 71 of the PLC's Standing Order.<sup>344</sup>

While Qrieh's claim was correct from a legal point of view, it was also correct in that there was in fact no absolute majority present to accept the comments of Arafat. The time and the manner in which Qrieh made his announcement reflected this fact. Kamal al-Shrafi, who headed the PLC's Monitoring Committee, pointed out that Qrieh's announcement occurred "while members were leaving the hall at the end of the session...no one was paying attention".<sup>345</sup> Mawaia El Masri, a PLC member, confirmed al-Shrafi's observation by adding, that "...the law, including the comments of Arafat, had been approved without consulting PLC members".<sup>346</sup> In so doing, with the help of the PLC's speaker the PA managed to impose its version of the law, and thus to place Palestinian NGOs under strict security supervision — in particular under Arafat's own supervision since Arafat, in addition to holding the PA's chairmanship, held the post of Minister of Interior.

On 16 January 2000 Arafat ratified the law, and since April 2000 the law has been in force.<sup>347</sup> Article (3) of the law asserts that the Ministry of Interior "will set up a

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<sup>343</sup> *Al-Hayat Al-Jadeeda* on 21 July 1998.

<sup>344</sup> "PLC's Standing Order", op.cit.

<sup>345</sup> Interview on 6 September 1999.

<sup>346</sup> Interview on 20 August 1999.

<sup>347</sup> *Al-Hayat Al-Jadeeda* On 3 April 2000.

competent department for the registration of the Associations and Organizations in coordination with the competent Ministry” (meaning that Ministry under the competence of which the activities of the NGO would fall). Article (4) added, “the founders of an Association or Organization submit a written application to the competent department for registration...the Minister of Interior had to issue his decision regarding the compliance of registration within a period not exceeding two months from the date of submission of the application...”<sup>348</sup>

These developments revealed a deliberate PA policy to limit people’s collective action, and to undermine any independent bottom-up initiatives. This policy gained impetus with the conclusion of the Sharm- El -Sheikh Memorandum, which was signed on 4 September 1999. The memorandum set up a timetable of 4-5 months for the transference of a further 11% of West Bank territories to PA full/partial control, and provided for the extension of PA security jurisdictions over 7.1% of area “B”.<sup>349</sup> Soon after the conclusion of this memorandum, which was the first of its kind for the Barak government, the PA began to exhibit a more oppressive attitude toward civil society. On 6 October 1999 Arafat decreed the establishment of the Ministry of NGOs’ Affairs. Article (1) of the decree stipulated that:

“The goal of the Ministry is to coordinate and organize the work between all Palestinian and foreign NGOs and governmental bodies based on transparency, participation, and complementary principles in planning, and implementing the overall national plan for the serve of Palestinian society”.

Article (2) added:

“To achieve its goals, the ministry is empowered to coordinate with the Ministry of Interior and other competent ministries with respects to NGOs licence and the follow up of their work...to coordinate between NGOs and other governmental bodies and lay down the mechanisms to achieve this...”<sup>350</sup>

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<sup>348</sup> Translated from the official Arabic text of law no.1 for the year 2000 concerning Charitable Associations and Community Organizations in *Al Waqaea*, op.cit., No.32, 7<sup>th</sup> Year, 29/2/2000.

<sup>349</sup> *The Sharm El-Sheikh Memorandum. September 4, 1999.* Online <[http://www.usembassy-israel.org.il/publish/press/visits/september\\_99/sharm.html](http://www.usembassy-israel.org.il/publish/press/visits/september_99/sharm.html)>

<sup>350</sup> See decree no. 4 in *Al Waqaea*, op.cit., No.31, 6<sup>th</sup> Year, 13/12/1999.



The two articles left the distinction between the powers held by the Ministry of Interior and those held by the Ministry of NGOs' Affairs unclear when it came to the licensing of any NGO. For instance, it was not clear at which stage the Ministry of NGOs' Affairs would have a right to intervene in the licensing of an NGO. Would the Ministry have the power to abrogate the decision of the Ministry of Interior to permit or prohibit the establishment of any NGO?

Furthermore, how was the Ministry of NGOs' Affairs going to follow up the work of Palestinian NGOs? And why in principle was such a ministry founded for this purpose, since the NGO law empowered the competent ministry with the right to follow up the work and activities of a given NGO (Art. 6), and obliges each Palestinian NGO to annually present to competent ministry its financial and activities reports (Art. 13)? These articles have already suggested the expansion of PA supervision of the work of any NGO. Consequently, it seems that the only motive to attach to the formation of the Ministry of NGOs' Affairs was that of seeking further watch and control over Palestinian NGOs, and of limiting the prospects of any collective bottom-up initiative.

### ***The PA Mode of Governance: Toward a Neopatrimonial System***

The PA tendency to limit the prospects of any collective, bottom-up initiative is evident in the developments issuing from the "Statement of Twenty". On 27 November 1999 a statement titled *A Cry of the Homeland*, undersigned by twenty Palestinian public figures out of which eight were PLC members, was released to the public. The statement blamed the PA for following "a systematic methodology of corruption, humiliation and abuse against the people", and described the Oslo agreements as "a barter trade to enrich a number of corrupt people in the Palestinian Authority".<sup>351</sup> The statement constituted the greatest blow to PA, whose cabinet's Secretary-General Ahmed Abdel El Rahman described the signatories as "a mislead group who failed to figure out the truth". Following this, the PA adopted harsh measures against those who signed the statement. The PA's security forces arrested Abdel El Sattar Qassim, a professor of political science at Al Najah University of Nablus, Dr. Yasser Abu Safiah from Nablus, Adel Samara, a professor of Economics

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<sup>351</sup> *Palestine Report*. Vol.6, no.24, December 1, 1999.

in Ramallah, Dr. Abdel El Rahim Kittani from Tulkarm, and Ahmed Qatamesh, a national public figure and the man who had survived the longest Israeli administrative detention. Furthermore, house arrest was imposed on Bassam El Shaka, Nablus's ex-mayor.<sup>352</sup> None of the PLC members who signed the statement were arrested, thanks to their immunity.

On 28 November, however, Mawaia El Masri (a PLC member and one of the statement signatories) was shot three times in the foot by unidentified armed men. The incident occurred while El Masri was leaving Gaza, on his way back to Nablus after participating in an emergency session convened by the PLC; this session was called to condemn the statement, describing it as "attempt to drag Palestinians into civil war".<sup>353</sup> Quickly, Palestinians attributed the attack on El Masri to PA security forces and hundreds demonstrated in Nablus in support of El Masri and his colleagues.<sup>354</sup> Reinforcing their accusations, Palestinians pointed to the PA forces' attack on Abdel El Jawad Salah, a PLC member and also a signatory, who was beaten while he was marching with others before Jericho prison in protest against the detention of some of the other signatories.<sup>355</sup>

These developments, and the supportive popular reaction on behalf of the signatories of the "Statement of Twenty", revealed the growing popular awareness of corruption; an August 1999 poll showed that no less than 35.8% of Palestinians believed that corruption had widely spread throughout PA's institutions and apparatus.<sup>356</sup> Palestinians' understanding of corruption did not imply unofficial payments to state officials in return for favours, or acts "to alter the prescribed implementation of administrative regulations placed by state".<sup>357</sup> Rather, their understanding focused on a misuse of power and the mismanagement of donors' aid and other PA revenue by top politicians and senior officials of the PA.

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<sup>352</sup> LAW's Press Release on 28 November 1999 & *Al Quds Al-Arabi* on 29 November 1999.

<sup>353</sup> *Al Quds Al-Arabi* on 2 December 1999.

<sup>354</sup> *Al-Quds Al-Arabi* on 4/5 December 1999.

<sup>355</sup> Al Haq's Press release on 16 December 1999. Online <<http://www.alhag.org>>

<sup>356</sup> JMCC's poll no.32 online <<http://www.jmcc.org>>

<sup>357</sup> Joel S. Hellman, Geraint Jones, and Daniel Kaufmann. *Seize the State, Seize the Day: State Capture, Corruption and Influence in Transition*. Policy Research Working Paper 2444, The World Bank, September 2000, P.5

In this sense, Palestinians were greatly alarmed by the 600-page report by the General Monitoring Commission (GMC)<sup>358</sup> on corruption in the PA's various institutions and apparatus issued in May of 1997. The report pointed out that some 323 million USD — almost 40% of the PA's 1996 budget — had been misused or mismanaged by the PA's politicians and senior officials. Jarrar Kidwa, head of the report compilers, asserted that part of this wasted funding went into the personal accounts of some ministers, without the knowledge of the Ministry of Finance.<sup>359</sup> Among such ministers were Nabil Sha'ath, Minister of Planning and International Cooperation, and acting Foreign Minister Jamil El Tarafi (also Minister of Civil Affairs), as well as the Minister of Transportation Ali El Qawasmi.<sup>360</sup>

The importance of this report derived from the fact that it was the first of its kind in the Arab world to publicly raise its issue of corruption. Following, the Palestinian legislative council set up a parliamentary committee to launch its own investigation into the matter.<sup>361</sup>

After two months spent hearing accounts from representatives of the concerned ministries and other PA's apparatuses, the committee presented its own report to the PLC in July 1997. The information in the GMC report was confirmed, and President Arafat was called on to consider reshuffling his cabinet, and to try those ministers accused of misusing their power and financial mismanagement. These findings constituted an intolerable blow to PA ministers. Accordingly, in a gesture that sought to express opposition to the GMC and PLC reports, sixteen ministers announced their resignation in December 1997.<sup>362</sup>

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<sup>358</sup> The GMC was founded in September 1994 by virtue of presidential decision no.22 of the year 1994. In December 1995 law no.17 provided it as an independent General Commission supervised directly by the Presidential Office that had the aim of "Monitoring public funds and securing efficient distribution of it..." (art.2). Article (7) specifies the institutions and public organizations that fall under the jurisdiction of the GMC ; "the following bodies are subject to the Commission Monitoring; PA's Ministries and apparatuses, Public Commissions and Institutions, Associations, Societies, and Unions...Private Institutions and Companies that either assist PA or receive assistance from PA, or were licenced to benefit from PA's public facilities". Translated from the Official Arabic text of the law in *Al Waqaea'*, op.cit., No.11, 3<sup>rd</sup> Year, 11/2/1996.

<sup>359</sup> *Jerusalem Post* on 25 May, 1997.

<sup>360</sup> See "*Palestine Report*" Vol.3, no.8, August 1, 1997.

<sup>361</sup> Interview with Sa'di El Krunz, a PLC member, and head of the committee, on 15 July 1998.

<sup>362</sup> *Al-Hayat Al-Jadeeda* on 31 December 1997.

Unprepared to deal with the legal implications of these ministers' resignations, Arafat disapproved the resignations and appealed to the ministers to assume their positions until changes to the cabinet were declared. In early August 1998<sup>363</sup> Arafat declared his new cabinet. Surprisingly, instead of removing those ministers suspected of corruption, the new cabinet secured positions for them and increased the total number of ministerial positions from 23 to 31. Of the new seven ministers added, the most notable were Sa'di El Krunz, who headed the PLC committee that investigated the corruption, and Youssef Abu Safiah, another member of the same committee.

Simply, Arafat assigned his most influential critics to the cabinet as a means of containing and absorbing them. In so doing, Arafat exhibited an unwillingness to handle corruption, and continued with his policy of either keeping those people suspected of corruption and misuse of power close to him so that he secured their full attachment to him as the source of their legitimacy, or containing and absorbing his critics by enabling them with some sort of new power.

Nevertheless, Arafat's continuous attempts to surround himself with "clients" and to play the role of their patron resulted in some failed situations. Abdel El Jawad Salah, a PLC member and one of Arafat's most vocal critics, turned down the position of a minister without portfolio, and described the new cabinet as "a real tragedy for Palestinians".<sup>364</sup> Also a PLC member and former Minister of Higher Education, Hanan Ashrawi refused to keep his position in the new cabinet in protest of Arafat's reluctance to promote real reform; "what is needed, Ashrawi asserted, "is not to maintain the old structure...but substantial and comprehensive reform".<sup>365</sup> Notwithstanding the critical voices swirling around in the new cabinet, the PLC passed a vote of confidence in it and consequently abrogated one of the most serious attempts at reform. Ali Abu El al-Reesh, a PLC member, expressed his frustration over the PLC vote of confidence and called on his colleagues "to apologize for those ministers suspected of corruption".<sup>366</sup>

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<sup>363</sup> See presidential decree no.2 from the year 1998 concerning the Cabinet in *Al Waqaea'*, op.cit., No.26, 5<sup>th</sup> Year, 26/11/1998.

<sup>364</sup> *Al-Hayat Al-Jadeeda* on 7 August 1998.

<sup>365</sup> Ibid.

<sup>366</sup> *Al Ayyam* on 10 August 1998.

However, the PLC vote of confidence in the new Cabinet did not imply the issue of corruption had been distanced from public concern. In fact, corruption remained widely discussed by the public. One of the chief concerns of the public had to do with the system of favouritism and nepotism that characterised recruitment to various PA ministries. Alongside this concern was another relating to PA officials' use of public funds for private benefits, e.g., the construction of luxurious houses similar to those of former Palestinian Prime Minister Mohammoud Abbas (better known as Abu Mazen), Minister of Social Affairs Intisar El Wazir, and Muhammad Dahaln who headed Gaza's Preventive Security Forces at Gaza beach. Though these assertions are difficult to prove, they are also difficult to disprove given the PA's lack of transparency and clear guidelines and regulations regarding public expenditure.

Officially tolerated monopolies were interesting examples of institutional weakness within the PA. These monopolies were the Palestinian Company for Trade Services (Cement Company), the Palestinian Development and Investment Company, the Petroleum General Commission, and Tobacco Commission.<sup>367</sup> These companies assumed monopolies over products like wheat, cement, flour, oil, fuel, iron, cigarettes, computers, dairy, and others. It is thought Muhammad Rashid, Arafat's economic advisor and the man who controlled most economic activities in the autonomous territories managed them.

All of these monopolies operated outside the PA's regular budget, and no one knows their exact annual revenue. Despite this, some estimate the figure at 300 million USD per year.<sup>368</sup> Still, these estimations lack supportive evidence, and remain difficult to substantiate given the mysterious nature of the monopolies. This mysterious nature also made it difficult to know whom among PA officials has connection to the monopolies. A widely spread rumour among Palestinians asserts that Muhammad Dahaln and Rashid were the monopolists of cement and fuel trade, and some scholars point to Minister of Planning and International Cooperation Nabil Sha'ath having

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<sup>367</sup> *Palestine Report*. Vol.3, no.9, August 8, 1997.

<sup>368</sup> Rachel Ehrenfeld. "*Where Does the Money Go? A Study of the Palestinian Authority*". New York: American Centre for Democracy, November 2002. Online <<http://www.public-integrity.org/money.pdf>>

owned a computer monopoly, and Ahmed Qrieh as co-owner of the preserves, cigarette and dairy monopolies.<sup>369</sup>

While the public exchanged these rumours they suffered severe economic conditions, mainly due to the Israeli policy of closure that denied the some 120,000 Palestinians employed by Israel in 1992 access to Israeli labour markets in 1996.<sup>370</sup> The hard economic conditions facing these Palestinians were similar to those of the Palestinians absorbed by the PA service sectors (civil and security), whose number is estimated to have been 85,000 in 1998<sup>371</sup> and whose average remuneration did not exceed 274 USD/month (decreased to 135 USD/month if unpaid family members are taken into account).<sup>372</sup> This monthly income of a Palestinian family barely covered its monthly expenditure, an average of which has been estimated to have been 579 Jordanian dinars (approximately 830 USD) in 1998.<sup>373</sup> Adnan Samara, Deputy Minister of Industry, expected internal unrest if the economic conditions of those Palestinians did not improve; “the situation is very dangerous...the people have not seen any results...people have more difficulties now than before the authority was created...”<sup>374</sup> Samara's expectations became facts on the ground when basic products' prices — including Fuel and Wheat prices — shifted at unprecedented rate in PA autonomous areas in late November of 1999.

Hundreds of Palestinians protested this shift, and called on the PA to bring an end to their economic suffering. In the words of Anies Abu Muhsan, a shop owner: “people are very angry...the horrible shift of the prices promoted their protests”.<sup>375</sup> The demonstrators, many of whom are landless refugees, took to the street with banners reading, “Lions starve in the refugee camps, and dogs eat the meat of sheep”. People placed the responsibility of this shift on PA officials who, according to Sara Adwan (a 45-year-old teacher and mother of ten children whose husband was unemployed),

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<sup>369</sup> Ibid.

<sup>370</sup> Office of the Special Coordinator in the Occupied Territories. *The West Bank and Gaza Strip Private Economy: Conditions and Prospects*. Special Report, Gaza, February, 1998, P.3. online <<http://www.arts.mcgill.ca/mepp/unsco/private/private.html>>

<sup>371</sup> *Al-Risalah* on 26 February 1998.

<sup>372</sup> Office of the Special Coordinator in the Occupied Territories. *The West Bank and Gaza Strip Private Economy...*, op.cit., P.14.

<sup>373</sup> *Al Ayyam* on 24 July 1998.

<sup>374</sup> *Jerusalem Post* on 18 July, 1997.

<sup>375</sup> *Al Quds Al-Arabi* on 26 November 1999.

were “adding more suffering on the shoulders of our people”. In a political statement issued on 25 November, Fatah called these officials the Mafia that got rich at the expense of other people, pointing particularly at Mohammad Rashid as an octopus who “sucks our people’s blood and eats their meat and bones”. Fatah went further and called on Arafat “to immediately intervene...to bring end for monopolies and grafts grow at the expense of people’s basic needs”.<sup>376</sup> Fatah's demand of Arafat to end monopolies on one hand implied his advocating the free market as area of fairness and justice, and on the other its awareness of the mode of government endorsed by the PA.

This mode of government, which is in principle a presidential mode, concentrated extensive power in the hands of Arafat. The power includes the appointment of members of cabinet, the promulgation and veto of laws passed by the legislative body, the right to issue decree and decisions that enjoy the power of laws, the appointment of officials within PA security and civil sectors, the establishment and dissolution of civil institutions, the control of donor aid and its distribution, and the approval of the PA’s security and civil personnel payroll. Much of this power had been promoted by the Oslo accords.

Article IV of Oslo II, for example, enabled Arafat to appoint members to cabinet, and article. XVIII enabled him to veto, promulgate, initiate, and issue legislations. In part, thus, it was the Oslo accord which promoted such a mode of government. Yet Arafat's opposition to institutionalization and his appetite for power as expressed by his control of “almost every decision” and his preference for “personally selecting each appointee to PA jobs of any importance”, were also factors which according to Barry Rubin blocked “PA activity...when Arafat is out of the country, or even away from his office for the day”.<sup>377</sup>

In assuming hegemony over the Palestinian decision making process, Arafat was backed by the Palestinian security forces, the majority of whom were affiliated with Fatah and whose commanders were his clients and loyalists. These security forces were only one of the many sources of Arafat power. Among the others was Arafat's

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<sup>376</sup> *Palestine Report*. Vol.6, no.24, December 1, 1999.

<sup>377</sup> Barry Rubin. “After Arafat: Succession and Stability in Palestinian Politics.” In *Journal of Middle East Review of International Affairs (MERIA)*. Vol.2, no.1, March 1998, P.1. Internet edition Online <<http://meria.idc.ac.il>>

capacity to re-produce an elite atmosphere around himself by blending so called “insiders” and “outsiders”. To apprehend the importance of this latter source of Arafat’s power, one must first recognise the social and political ramifications of the term “outsiders” and “Insiders”. The issue of outsiders vs. insiders emerged when Israel, in parallel with the Oslo process, enabled nearly 500 PLO cadres and deportees to return to their homes in the territories. The vast majority of these cadres and deportees were affiliated with Fatah (only 40 were affiliated with the PFLP and the DFLP, both of which opposed the Oslo accords).<sup>378</sup>

Among these cadres and deportees were those who had been socialized in the Arab world like Mohammoud Abbas (Abu Mazen), Ahmed Qrieh (Abu Ala’), Nabil Sha’ath, former Secretary General of the PA’s Cabinet Ahmad Abdel El Rahman, and Presidential Chief of Staff Tayeb Abdel Rahim. The most prominent member of this set is Abu Mazen, who would later become historicised as the first Palestinian Prime Minister. Born in Safed in 1935, like many Palestinians Abu Mazen fled Safad for Syria in the aftermath of the 1948 war. Later he met Arafat, Salah Khalaf, and Khalil El Wazir, and with them established the foundation for Fatah. In 1980 he was elected to as a PLO executive committee member, and in 1984 he was appointed head of the PLO’s Department of Arab Affairs before serving as PLO ambassador to Moscow, where on behalf of the PLO he signed a declaration of principles on 13 September 1993. After less than two years, Abu Mazen returned to the territories and was appointed by Arafat as Secretary General of the PLO in July 1995.<sup>379</sup>

Close to Abu Mazen is Ahmed Qrieh, who would also later be historicised — as the *second* Palestinian Prime Minister. Qrieh, considered one of the PLO technocrats, was born in Abu Dis village near Jerusalem in 1937. He left Palestine after *El Nakba*, and in the 1960s joined Fatah; he was then appointed Director of the Sons of Martyrs Institute (Samad) in Lebanon in the 1970s. After the 1982 Lebanese war Qrieh, like most PLO cadres, moved to Tunisia where he was elected to as a member of the PLO’s executive committee in 1989.<sup>380</sup> In early 1993 Qrieh led the Palestinian team in their Oslo backchannel negotiations with Israeli government, and in 1994 he was

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<sup>378</sup> *The Jerusalem Post* on 19 June, 1994.

<sup>379</sup> Abu Mazen’s full profile is cited in PA’s official webpage <<http://www.pna.gov.ps>>

<sup>380</sup> Qrieh’s full profile is cited in *ibid*.



appointed Minister of Economics and Trade before he resigned in September of that same year. In 1996 Qrieh was elected PLC speaker.

Khalil Shikaki notes that Abu Mazen, Qrieh, and other old PLO cadres owed their positions mainly to Arafat, rather than to an independent source of power based in the local community.<sup>381</sup> Most of these cadres, as mentioned, had been born in villages and towns now considered Israeli territory, and consequently most of them were unfamiliar with the West Bank and the Gaza Strip, and had not experienced the Israeli occupation.

Alternately, the term “insiders” indicates the Fatah activists who actually grew in the West Bank and in the Gaza Strip, and who organized as an underground movement in response to their victimisation by the Israeli occupation (which included detention and deportation). Typical figures from this elite are Muhammad Dahaln, Jibril Al Rajub, a PLC member and chief of Fatah West Bank Marwan El Barghuti,<sup>382</sup> and Minister of Prisoners Affairs Hisham Abdel El Raziq. This elite enjoyed an independent source of power rooted in the local community, and consequently adopted different approaches toward society and the Arafat hegemony over the decision making process.

Unlike the outsiders, who felt less reluctantly towards Arafat's hegemony over Palestinian decision-making, insiders strongly opposed this hegemony and called for the decision-making process to be opened to wider participation. Rubin Barry observes that the former elite (the outsiders) had allied with notables (*ayan*) and professionals who had broken with the conservative characteristics of the traditional *ayan* to espouse the national cause, and consequently were rewarded by being permitted to join the post-Oslo leadership.<sup>383</sup>

Nevertheless, Rubin notes the crystallization of the Palestinian elite into two camps — represented by the camp of PLO cadres plus *ayan* and professionals, and the camp of insider Fatah revolutionaries — did not imply unified supportive or opposing

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<sup>381</sup> Shikaki, “The Peace Process”, op.cit., Pp.15-16.

<sup>382</sup> El Barghuti was arrested by Israeli occupation forces in April 2002, after having been charged with leading the *Al- Aqsa* Martyrs brigades; the brigades were held responsible by Israel for many attacks against Israeli military targets during that current *Intifada*.

<sup>383</sup> Rubin. *The Transformation*, op.cit., Pp.88-91.

positions toward Arafat among either camp's members.<sup>384</sup> In each camp, it was possible to find exceptions to their rule. Zakariyya al Agha, for instance, was considered to stand among the *ayan*, and was appointed by Arafat as Chief of Fatah in the Gaza Strip, and as Minister of Housing in the 1994 cabinet; this appointment was made as a reward for Zakariyya al Agha's support of the movement during the first *Intifada*. Former Minister of Justice Frieih Abu Medien (an insider deriving from a large nomad family) behaved similarly, supporting the movement during the *Intifada*. Alternately al Agha and Abu Medien, both of whom lacked a popular base, were uncritical of Arafat. Marwan Kanafi, one of Arafat's advisors, stood among the outsiders but, in November 1997, he warned of the ramifications of Arafat's hegemony over the decision-making process and called for building "a democratic apparatus in order to prevent problems arising in the days following Arafat's departure".<sup>385</sup>

At the same time, among professionals and the *ayan* it was also possible to find some members who stood in opposition to Arafat's hegemony. Hanan Ashrawi (a professional), as we have seen, refused a position in the 1998 cabinet and called for structural adjustments to be made to the Palestinian political system. Haider Abdel El Shafi — one of the most respected public figures in Gaza Strip, head of the Palestinian team dispatched to the Madrid peace conference and Director of the Palestinian Red Crescent Society, as well as a former PLC member — resigned from the PLC on 28 September 1997 in protest of Arafat's semi-autocratic rule.<sup>386</sup>

Mawaia El Masri, a member of a leading family in Nablus, was one of the signatories of the "Statement of Twenty". Similarly, Rawia El Shawa derived from the most prominent family in Gaza Strip, and was elected to PLC in 1996 before she signed the "Statement of Twenty". Moreover, the insider Fatah revolutionaries were not united in their opinion of Arafat. While Muhammad Dahaln, and Jibril El Rijub (derived from Middle Class families), along with their security forces, constituted a vanguard of Arafat's rule (or at least did in the pre-Al-Aqsa *Intifada* era, as far as Dahaln is

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<sup>384</sup> *Ibid.*

<sup>385</sup> *Jerusalem Post* on 19 November, 1997.

<sup>386</sup> See *Al-Quds* on 17 October, 1997 & Abdel Shafi's letter titled "In the name of Duty and Honesty", cited in *Palestine Report*. Vol.4, no.29, January 2, 1998.

concerned), Al Barguthi (derived from one of the biggest families in Ramallah) stood in opposition to such a rule.

On 25 October 1998 El Barghuti led a demonstration in Ramallah to protest the killing of one Palestinian by the Musa Arafat-commanded military intelligence during a raid on a Ramallah-based Fatah office. The demonstrators shouted “PA, PA, we want an end to torture, we want a freedom...”<sup>387</sup> In a similar case, two Palestinians were shot to death by Abu Sharekh-commanded security forces in Rafah, south of the Gaza Strip, on 10 February 1999. The event took place when hundreds of Palestinians protested against the State Security Court's sentencing of three Palestinians to the death penalty, life imprisonment, and 15 years imprisonment.<sup>388</sup>

The murder of these Palestinians, committed by outsider-general commanded security forces, might serve as an empirical case from which to infer the nature of outsider-insider relationship. Having lived in relatively comfortable exile, and having enjoyed better living standards than the insiders, most of the outsiders were used to consumption values and consequently appeared less resistant to corruption and misusing their power. It was in their interest to preserve the Arafat's corrupted system, and even to protect it, despite the fact that this was necessarily done at the expense of the local community. On the other hand, the insiders' long years of suffering under the occupation had promoted among them what might be called a *utopia of homeland*; through this, they dreamt of rule by a law-based political system, under which they would enjoy full political, civil, economic, and social rights in compensation for sacrifices made during the years of the occupation.

However, this friction between insiders and outsiders the emerged over the proper mode of government did not imply friction over the peace process. Both insiders and outsiders supported the peace process, as both their interests were connected to it. Azmi Bishara notes that the peace process had privileged these Palestinians by enabling them to enjoy “exclusive status” as VIPs, consequently making them different from the majority of people who continued to suffer Israeli measures like closure, detention, and so forth. In so doing, Bishara goes on to state these elite had

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<sup>387</sup> *Jersualem Post* on 30 October, 1998.

<sup>388</sup> See PCHR's releases on 2 February & 10 March 1999.

become ‘a cliental network’ in regards to the peace process.<sup>389</sup> Due to their convergence around the peace process, and their simultaneous divergence over the proper mode of government that should follow it, both insiders and outsiders considered Arafat to be the final arbitrator, their centre of gravity. Consequently, Arafat was able to play them off each other, and thereby to control the game, ultimately attaching insiders and outsiders to each other through their collective membership in the executive body.

The Palestinian cabinet of 28 May 1994 was, for instance, a blend of outsiders and insiders. Out of seventeen ministers (including Arafat with the portfolio of Interior), seven were outsiders and nine were insiders. The outsider ministers were: Yasir Amr (Minister of Education), Yasser Abd Rabbu (Minister of Culture and Arts), Samir Ghusha (Minister of Labour), Ahmed Qrieh (Minister of Economic and Trade), Muhammad al-Nashashibi (Minister of Finance), Nabil Sha’ath (Minister of Planning and International Cooperation), and Intisar Al Wazir (Minister of Social Affairs). Insider ministers were: Abd al-Hafiz al-Ash’ab (Minister of Communication), Azmi al-Shu’abyi (Minister of Youth and Sport), Riyadh al-Za’nun (Minister of Health), Zakariya al-Agha (Minister of Housing), Frieih Abu Medien (Minister of Justice), Sa’eb Erekat (Minister of Local Government), Ilyas Frayj (Minister of Tourism), Hassan Tahboub (Minister of Islamic Waqf), and Abdel A Ziz al Haj Ahmad (Minister of Transportation).<sup>390</sup>

Of these sixteen ministers, eight were affiliated with Fatah — Ahmed Qrieh, Nabil Sha’ath, Sa’eb Erekat, Intisar Al Wazir, Frieih Abu Medien, Zakariya al-Agha, Riyadh al-Za’nun, and Abdel Aziz al Haj Ahmad. Five had been categorized as independents (close to Fatah); two ministers (Yasser Abd Rabbu & Azmi al-Shu’abyi) were affiliated with Fida (a splinter group of the DFLP) and one attaching himself to the Popular Struggle Front known as Samir Ghusha.

Consequently, Fatah dominated the major Palestinian executive body while at the same time that body was internally divided to enable Arafat to keep control. In a

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<sup>389</sup> Azmi Bishara (a.). *Reflection on the Realities of the Oslo Process*. December 2000. Pp.7-8. Online <<http://msanews.mynet.net/MSANEWS/200012/20001216.17.html>>

<sup>390</sup> Rex Brynen. ” The Dynamics of Palestinian Elite Formation”. In *Journal of Palestine Studies*. Vol. XXIV, no.3 (Spring 1995), P.39.

sense, Arafat preferred his own party members to those of any other. However, he was constantly concerned about the potential emergence of a unified political front that might challenge his authority, and so encouraged a heterogeneous cabinet.

The structure of the second Palestinian cabinet of May 1996 might substantiate the above analysis. A further nine insiders joined, and four insider ministers were fired: Faisal El-Husayni, Minister of Jerusalem (without portfolio); Abdel El Jawad Salah, Minister Agriculture; Imad Faljoui, Minister of Communication (replaced Abd al-Hafiz al-Ash'ab); Hanan Ashrawi, Minister of Higher Education (new ministry); Maher El Masri, Minister of Economic and Trade (replaced Ahmed Qrieh); Ali El Qawasmi, Minister of Transportation (replaced Abdel A Ziz al Haj Ahmad); Abdel El Rahman Hamd, Minister of Housing (replaced Zakariya al-Agha); and Abdel Aziz Shahien, Minister of Supply (new ministry); and Jamil El Tarafi, Minister of Civil Affairs. Only two more outsiders joined the Cabinet: Bashir El Barghouti for Industry (a new ministry), and Talal Sadr as Minister of Youths and Sport (replacing Azmi al-Shu'abyi).<sup>391</sup>

The 1996 cabinet, accordingly, was formed of up to 23 ministers (excluding Arafat), out of whom thirteen were insiders and ten were outsiders. Of these 23 ministers, twelve were affiliated with Fatah; six out of these twelve Fatah-affiliated ministers had served in the 1994 Cabinet (when Ahmed Qrieh and Al Haj Ahmed were no longer in cabinet), and six were new. The newly appointed ministers were: Faisal El Husayni, Ali El Qawasmi, Maher El Masri, Abdel El Rahman Hamd, Jamil El Tarafi, and Abdel Aziz Shahien. Seven ministers had been classified as independents, one affiliated with Fida (Yasser Abd Rabou), one attached himself to the Popular Struggle Front (Samir Ghusha), one (specifically Bashir El Barghouti) was affiliated with the People's Party (originally the Palestinian Communist Party, but renamed in the 1990s after the collapse of the Soviet Union), and one had at one time been close to Hamas (Imad El Faljoui).

The 1996 cabinet thus exhibited further domination of the Fatah over the executive body. Even the post of Secretary General, which had evolved at time, was entrusted to

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<sup>391</sup> See *Palestine Report*. Vol.1, no.50, May 17, 1996.

the Fatah-affiliated Ahmed Abdel El Rahman. Moreover, Jamil Hilal noted that Fatah domination was not confined to the cabinet; it also extended over Palestinian bureaucracy. Out of the forty deputies and assistant deputy ministers of the Palestinian ministries, Halal observed that in 1996 thirty-three were affiliated with Fatah.<sup>392</sup>

Usually appointment to these posts, and to any post of importance in Palestinian bureaucracy (e.g., a ministry's Director-General), had to be endorsed personally by Arafat. Political considerations, excepting some fields like finance and planning, were the chief factors deciding appointments. Those who were appointed to these posts usually lacked the necessary professional qualifications (in the narrow sense of the word) to fulfil their job. Their power was derived from their connection to Arafat, who punished/rewarded them according to their readiness to cooperate with him. Simply, their futures relied on Arafat who, if they cooperated, would be generous and privilege them in various ways (e.g., he would tolerate their misuses of power). The affair of a “forged citrus certificate” by the Ministry of Agriculture<sup>393</sup> is a good example, showing not only how Arafat tolerated these officials' misuse of power, but also how their connection to Arafat encouraged them to rebel against their ministers.

In October 1997 Minister of Agriculture Abdel El Jawad Saleh discovered the involvement of a number of his ministry's high-ranking officials in the production of false licences for Israeli citrus produce that allowed Palestinians to market their products in Jordan markets. Among said officials was Deputy Minister Azzam Tbeileh, an Arafat appointee and loyalist. Tbeileh denied the charge, and attacked Saleh with accusations that he was paralyzing the ministry's work.<sup>394</sup> Though Saleh presented a report on the issue to the PLC, no investigation was made and in fact Saleh was fired from his ministry the following year (Tbeileh stayed).

In addition to the privilege of protection (as illustrated above), officials enjoyed the privilege of having their family members and people with whom they had connection enjoy a living standard higher than that of normal people — what Bishara calls

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<sup>392</sup> Jamil Hilal (Arabic). *El Nizam El Syasi El Filistini ba'd Uslo: Dirasah Tahlilyah Naqdyah* (The Palestinian Political System After Oslo: A critical Assesment). Ramallah/West Bank: Institute for the Study of Democracy, July 1998, P.190.

<sup>393</sup> For details of this issue see *Al-Hayat Al Jadeeda* on 20 October and *Al-Ayyam* on 21 October 1997.

<sup>394</sup> *Palestine Report*. Vol. 3, no.20, October 24, 1997.

“exclusive status” or that of “VIPs”, with its derivative rights including free movement between the West Bank and the Gaza Strip, special treatment in cases of travel conducted outside the autonomous areas,<sup>395</sup> special treatment in every contact they made with various PA public institutions, special medical services (e.g., being treated in Egyptian, Jordanian, and Israeli hospitals and, in some cases, even in European hospitals), in addition to other privileges.

In doing the above, Arafat was willing to extend his system of patronage to the bottom level of society, and consequently divided that society between those who benefited from his patronage and those who were harmed by it. As a result, social conflict — in the sense of competition between well-organized interest groups that had access to political institutions and could influence state policies — disappeared from the Palestinian scene. Arafat's system of patronage discouraged such conflict, and instead promoted an unproductive version that is “...not channelled into a political institutions in a way that reinforce their primacy, but is instead fragmented and transferred into competition over patronage and access to the personalized...power within the PA apparatus”.<sup>396</sup> Rex Brynen believes that this kind of conflict is a typical feature of a neopatrimonial system, in which state power and funds distributed by the patron (in our case, Arafat) become a means of gaining the loyalty of the clients, who engage from their side in stiff competition (fuelled by the patron) over this power and financial support.<sup>397</sup>

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<sup>395</sup> To travel outside the autonomous areas Palestinians used either the Rafah International Terminal (for Palestinians in the Gaza Strip) or the Al Karamah Terminal (located at the border with Jordan, and used by the West Bank's Palestinians), or the Tel Aviv International Airport. On the outbreak of the second *Intifada* in September 2000, Palestinians were denied the right to travel through Tel Aviv International airport. The only two crossings used by Palestinians now are Rafah and Al Karamah Terminals. Those who used Rafah Terminal move first to Egypt, from where they move to the outside world. Those who use Al Karamah Terminal move to Jordan, and from there they move on to the outside world. Usually it takes many hours (at least seven) of waiting at Rafah or Al Karamah Terminal before one is allowed to cross. In the case that one has connections with the PA, one would be directly allowed to pass. Usually the Israeli, Egyptian, and Jordanian authorities tolerate those who enjoy what Palestinians call *Tanseef*/coordination (a word used to describe the arrangements made for a given person to facilitate his crossing a border). Of course Palestinians who enjoy this privilege are those who have relatives in PA ministries or serving in security forces. Without exception, all PA top officials and senior civil servants and their family members enjoy this privilege.

<sup>396</sup> Christopher Parker and Sami Zemni. “From Securitization Toward Consociation?: The Civic Dynamic of Palestinian Authority/Islamic Rivalry”. In *Arab Studies Journal*. Vol.VI no.2/Vol.VII no.1 (Fall 1998/Spring 1999) P.40.

<sup>397</sup> See Rex Brynen. “The Neopatrimonial Dimension of Palestinian Politics”. In *Journal of Palestine Studies*. Vol.XXV; no.1 (Autumn 1995) Pp.23-36.

The origin of this system is rooted in the Ottoman era, when the central authority empowered the village *Sheikhs* with the right of tax collection in exchange for their loyalty and local influence. With the introduction of the *Tanzimat* (reform) in 1839, Ottomans reproduced their patronage system through administrative councils that enabled the *ayan* to assume the role of tax collection (See Chapter II, Pp.47-51).

The end of Ottoman Rule in 1919 and the British assumption of power in Palestine were not followed by the disappearance of this system. Rather, the system was again invoked when British mandate tolerated the Muslim-Christian Association (MCA) and later set up the Supreme Muslim Council (SMC). Both institutions, as we have seen in chapter II (Pp. 52-53), were dominated by leading families permitted to claim full representation of Palestinians before the mandatory government. Under the Israeli occupation, the system was re-produced once again when Moshe Dayan, paralleling his policy of “non-intervention”, enabled Palestinians to organize municipal elections in 1972 that created a pliable indigenous leadership (see chapter II, Pp. 80-83). While the occupation realized its goals in the 1972 election, as we have seen in chapter II, it failed to do so in the 1976 elections (see chapter II, Pp. 88-92), and thus in the 1980s it turned to support the short-lived but still pliable local leaders (through the village league, see chapter II, Pp. 100-102), and franchised said leaders with limited power in exchange for loyalty.

When Arafat and his authority arrived in the territories in 1994, the system had been invoked but in wide scale. Having enjoyed the status of the symbol of Palestinian nation, and at the same time, a long history of fighting for Palestinian cause, Arafat had little difficulties in asserting himself not only as PA leader, but also as a “father” of all Palestinians. In so doing, Arafat was backed by the traditional power-orientated (e.g., patriarchal) culture of Palestinian society, which strongly asserts values such as fatherhood

It was this value system that created mixed feelings toward Arafat. Despite Palestinians’ criticisms of his semi “autocratic” rule, and his hegemony over the decision-making process, they continued to consider him as their only conceivable leader! In the words of Rawia El Shawwa, one of the signatories of the Statement of Twenty: “because he is the president...he behaves in a fatherly and authoritative



manner...Arafat's manner is tolerated because he is the spiritual leader".<sup>398</sup> Even his opponents, like Hamas and Islamic Jihad, refrained from discussing issues related to Arafat's legitimacy as Palestinian leader. This value context prompted Arafat to address his people with words like "my people... the sons of my people and my clan, my brothers...my loved ones..."<sup>399</sup> upon his arrival in the territories in July 1994.

Though Arafat's relationship with his people, normatively speaking, should be a constitutional one and should be shaped through formal legal structures (e.g., not informal tradition-derived structures), Arafat ignored this in his speech by, for example, failing to employ words like *citizens*. So Arafat was willing to assert customary law based on personal connections, at the expense of civil law based on legal and formal relations. Arafat went further even in November 1994, institutionalising this trend by setting up a "Presidential Department for Tribal Affairs" to adjudicate problems between families.<sup>400</sup>

Arafat's blend of informal social structure with the legal para-state structure of the PA further manifested itself in the involvement of various PA officials in settling family disputes according to customary law. On 29 September 1995 rites of tribal conciliation between two families in the village of Shyukh in Hebron took place under the auspice of Colonel Abu Khalid al-Lahham, Arafat's advisor on Asian and Islamic world affairs. On 30 September a tribal conciliation ceremony was concluded between the Qaysia and Nisann families under the auspice of the Presidential Security Forces in Jericho, "with the blessing of the Authority".<sup>401</sup> Jamil Hilal asserts that Arafat's promotion of tribal coalitions and customary law sought to weaken voluntary associations (e.g., political parties) structured according to horizontal principles, and thereby was actually at odds with the basic principles of Arafat's neopatrimonial system; the cliental relations being based on vertical principles.<sup>402</sup>

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<sup>398</sup> *Palestine Report*. Vol.2, No.31, January 17, 1997.

<sup>399</sup> *Jerusalem Post* on 3 July 1994.

<sup>400</sup> See decision no.161 for the year 1994 in *Al Waqaea'*, The formal gazette of PA, no.3, 2ed year, 20/2/1995.

<sup>401</sup> Hillel Frisch. "From Palestine Liberation Organization to Palestine Authority: The Territorialization of "Neopatriarchy". In Sela & Ma'oz (eds.) *The PLO and Israel*, op.cit., Pp.58-59.

<sup>402</sup> Hilal (Arabic). *El Nizam El Syasi*, op.cit., Pp.86-88.

More importantly, however, the promotion of tribal coalitions would have negative ramifications on prospects for setting up a modern state-society relationship based on a group of abstract binding rules, as Joel Migdal suggests,<sup>403</sup> and would instead emphasize personal connection as an instrument of access to state power and resources. The overall outcome was a state of affairs in which some social groups were underrepresented either in economic or political terms, and other groups (that accepted a cliental role) were represented in various state apparatus under patronage of their claimed “father” (Arafat).

In 1998 Arafat showed further determination to keep his neopatrimonial system, when he maintained positions of those cabinet ministers suspected of corruption, and absorbed two members of the PLC committee who had investigated the corruption in the PA apparatus in 1997. Arafat expanded the cabinet positions from 23 to 31 (including Arafat himself within the Ministry of Interior), and indirectly fired two of his most persistent critics (Hanan Ashrawi, and Abdel El Jawad Saleh) after demoting Saleh to the position of a minister without portfolio. He also orchestrated Ashrawi's resignation by enabling those ministers suspected of corruption to keep their positions in the new cabinet.

In addition, Arafat founded three new ministries: the Ministry of Environment's Affairs (Youssef Abu Safiah, member of the PLC committee to investigate corruption was appointed Minister), Ministry of Prisoners Affairs (Hisham Abdel El Raziq, one of insider Fatah revolutionaries was appointed minister), and Ministry of Parliamentary Affairs (Nabil Amr, a Fatah-affiliated outsider, was appointed minister). Moreover, Sa'di El Krunz, head of the PLC committee assembled to investigate corruption, was appointed Minister of Industry instead of Bashir El Barghouti, who remained in the cabinet but without portfolio. Alongside El Barghouti, Hassan Asfour, and Ziad Abu Ziyad, were appointed as ministers without portfolios. Afterwards, however, Asfour took over the newly emerged Ministry of NGOs' Affairs. Furthermore, Arafat cancelled the Ministry of Youths and Sport, but

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<sup>403</sup> Migdal. *Strong Societies*, op.cit., p.19.

kept its minister Talal Sadr in the cabinet without a portfolio; he also appointed Mutri Abu Atia as Minister of Tourism, in place of Ilyas Ilyas Frayj.<sup>404</sup>

Some fourteen ministers of this new cabinet were outsiders (including Arafat), and seventeen were insiders. Of the thirty-one ministers, at least twenty were Fatah-affiliated, and the remaining eleven were either affiliated with the FIDA, the People's Party, or were Independents. Consequently, the cabinet was again structured to support Arafat's neopatrimonial system which, as we have seen, weakened/restrained civil society, excluded/co-opted opponents, selectively restrained basic freedoms like the freedom of expression, tolerated corruption, abrogated rule of law, and finally, as the next chapter will discuss, undermined the role of the Palestinian Legislative Council (PLC).

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<sup>404</sup> See the Presidential decree no.2 from 1998 concerning the cabinet. In *Al Waqaea'*, op.cit, No.26, 5<sup>th</sup> Year, 26/11/1998.

## **Chapter IV: The Palestinian Legislative Council (PLC)**

### **The Incomplete Democracy**

One of the most notable events of the interim period was the Palestinian elections of January 1996. The elections, were held for the Palestinian Legislative Council and for President of the PA, were promoted by article I of DOP, which stipulated that “the aim of the Israeli-Palestinian negotiations...is, among other things, to establish a Palestinian Interim self-Government, the elected council (the “council”), for the Palestinian people in the West Bank and the Gaza Strip, for a transitional period not exceeding five years,....”.

Article III of DOP elaborated: “in order that the Palestinian people in the West Bank and Gaza may govern themselves according to democratic principles, direct, free, general political elections will be held for the Council under agreed supervision and international observation....” Article III of Oslo II reasserted these elections; “the Palestinian council and the Rae’s (president) of Executive Authority...will be elected by the Palestinian people of the West Bank, Jerusalem and the Gaza Strip for the transitional period agreed in Article I of the DOP.”

The protocol of elections, was parallel to Oslo II (Annex II), elaborated the basis of these elections, including the mode of agreed supervision and international observation; rules and regulations regarding election campaign; the qualifications of voting; nomination; the provisions of the election campaign; and so on. Art. 1 of the protocol provided a national Central Elections Commission (CEC) appointed by the PA for the purpose of supervising elections.<sup>405</sup> The CEC was assisted by sub-commissions at local level, which in turn set up a committee in each polling station with the aim of electoral registration (to register all persons qualified to vote).

To be eligible to vote, every Palestinian must be 18 years old or older, having a permanent residence in the polling district (clearly to prevent Diaspora Palestinians from voting), and not subject to a sentence by a Palestinian court (Art. 2 of the

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<sup>405</sup> Annex II (Protocol Concerning Elections) in Oslo II op.cit.

Protocol). With respect to nomination, the protocol denied those who “commit or advocate racism; or pursue the implementation of their aims by unlawful or non-democratic means”, the right to run for election (Art. 3). The Palestinian Electoral law, which Arafat ratified on 7 December 1995,<sup>406</sup> reaffirmed these principles and established a majority voting system with 16 constituencies for the election of the Palestinian legislative council members.

In this connection, the West Bank (including Jerusalem) was divided into eleven constituencies; Jerusalem, Jericho, Bethlehem, Hebron, Nablus, Jenin, Tulkarm, Qalqilya, Tubas, Silfeet, and Ramallah. Similarly, the Gaza Strip was divided into five constituencies; Jabalia, Gaza city, Deir El Balah, Khan Younis, and Rafah. Despite this, special regulation was made with regard to Nablus, where an additional seat among the 88 seats of PLC<sup>407</sup> was reserved to the Samaritan sect (Art. 5). Also, six seats based on the quota system were reserved to the Christian community in the West Bank and Gaza Strip.

The number of seats that each constituency contained was proportionate to the size of the population of the constituency compared to the total population. Though the decision of the number of seats each constituency elected and any other issues related to the elections, such as the nomination period and the date of elections, was supposed to be taken by CEC,<sup>408</sup> it was Arafat who ultimately decided these issues. On 13 December 1995, for instance, Arafat issued his decree no. 1 for the year 1995, designating 20 January 1996 as elections day and the nominee registration period as nine days starting on 14 December.<sup>409</sup> On the following day (14 December) he issued his decree no. 2 distributing the 83 seats of the council among the sixteen constituencies as in the accompanying table:

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<sup>406</sup> The full text of the law is cited in *Al Waqea'*, op.cit., no.8, 2ed year, 11/12/1995. The same law was published by *Al-Hayat Al-Jadeeda* on 9 December 1995.

<sup>407</sup> Though Oslo II specified the number of Palestinian Council seats with 83 seats, Palestinians were permitted to expand the council to 88 seats. See *Al-Hayat Al-Jadeeda* on 27 December 1995.

<sup>408</sup> Even the CEC, which appointed by Arafat on 21 December, was not neutral as Mohammoud Abbas (Abu Mazen) was commissioned to chair it. See Presidential decree no.3 in *Al Waqaea'* op.cit., no.10, 2ed year, 31/12/1995.

<sup>409</sup> The Presidential decree no.1 for the year 1995 in *Ibid*.

<i>Gaza Strip</i>	<i>Seats</i>	<i>West Bank</i>	<i>Seats</i>
Jabalia	7	Jerusalem	6
Gaza City	10	Jericho	1
Deir El Balah	5	Bethlehem	4
Khan Younis	7	Hebron	9
Rafah	5	Nablus	8
<i>Sub-total</i>	<i>34</i>	Jenin	6
		Tulkarm	4
		Qalqilya	2
		Tubas	1
		Silfeed	1
		Ramallah	7
		<i>Su-total</i>	<i>49</i>
<b>Total 83</b>			

Source: Decree no.2 for the year 1995 in *Al Waqaea'*. op.cit, no.10, 2ed year, 31/12/1995.

When the Israeli government permitted Palestinians to expand the number of PLC seats to 88, Arafat was the one who decided on the distribution of the additional five seats when he issued his decree no. 5 on 28 December 1995, to assign one further seat to each of the following constituencies: Khan Younis, Jerusalem, and Hebron; and two seats to Gaza.<sup>410</sup>

With respect to the election of the PA president, the WBGS (including east Jerusalem) were treated as one electoral constituency, not sixteen as in the case of the election of PLC members (Art. 60, Para. 4 of the electoral law). This entailed that each member of the electorate had one vote for the election of PA president, and as many votes for the election of PLC members as his constituency had seats in the council. For example, if a given constituency had seven seats in PLC, then each elector in this constituency could distribute their vote among all seven candidates for these seats or, if he preferred, among two or even one candidate. Electors thus had the option to vote for more than one candidate or party as well as for other candidates who might prefer to run in the election as independents, since the nomination of candidates was open to parties and independents as well.

<sup>410</sup> The Presidential decree no.5 in *Al Waqaea'* op.cit, no.10, 2ed year, 31/12/1995.

The candidacy for presidency was opened to every Palestinian who had a permanent residence in WBGS and was 35 years old or older on the day of the elections. Meanwhile, the candidacy for PLC seats was opened for every Palestinian who was 30 years old or older on the day of the elections and enjoyed also a permanent residence in WBGS (Art. 9 & 12 of the electoral law). Members of the PA cabinet, civil servants, members of municipal councils, and security forces personnel were denied the right to run in the election unless they resigned their positions ten days prior to the issuance of the final nominees lists (Art. 14).

In the election of the president the candidate who receives the highest number of votes is elected. In case there is only one candidate, this candidate must receive more valid votes than there are blank or invalid votes (Art. 88). For the election of PLC, the best-placed candidates win the seats of their constituency. But in case this constituency is among the partial quota-based constituencies ( for example, if two seats are reserved for Christians among, say, eight seats of a given constituency), then the two best placed among Christians win these two seats even if the counterpart Muslim candidates received a higher number of votes (Art.89). The same principle was applied in Nablus constituency, where one seat was reserved to the Samaritan sect.

### ***The 1996's Palestinian Elections***

On 20 January 1996 1,132,235 Palestinians, registered as eligible voters, they were able to vote at any one of 1696 polling stations distributed between the West Bank (including East Jerusalem) and the Gaza Strip. The aim was to elect 88 PLC members from 676 candidates who had nominated themselves. Nearly half of the eligible voters were women, whereas only 22 of the candidates were (3.25%).<sup>411</sup> The table below shows the distribution of, polling stations, candidates, and registered voters between the West Bank and Gaza.

<b><i>Region</i></b>	<b><i>No. of Polling Stations</i></b>	<b><i>No. of Candidates</i></b>	<b><i>No. of Voters</i></b>
West Bank	1198	374	665,603
Gaza Strip	498	302	347,632
<b>Total</b>	<b>1696</b>	<b>676</b>	<b>1,132,235</b>

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<sup>411</sup> *Al Bilad* on 3 January & the London-Based of *Al Hayat* on 19 January 1996.

In the West Bank the polling stations, candidates and voters were distributed among the eleven constituencies in the following way;

<i><b>The Constituency</b></i>	<i><b>No. of Polling Stations</b></i>	<i><b>No. of Candidates</b></i>	<i><b>No. of Voters</b></i>
Jerusalem	163	54	76,000
Jericho	22	6	12,737
Bethlehem	88	33	54,534
Jenin	145	37	82,850
Hebron	230	72	131,983
Ramallah	162	46	78,076
Silfeet	34	11	18,890
Tubas	25	12	15,972
Tulkarm	99	37	56,101
Qalqilya	54	12	27,270
Nablus	175	54	111,020
<b>Total</b>	<b>1198</b>	<b>374</b>	<b>665,603</b>

Source: *Al Bilad & El Nihar* on 20 January 1996.

As far as the Gaza Strip is concerned, the polling stations, candidates and voters were distributed among the five constituencies in the following way

<i><b>The Constituency</b></i>	<i><b>No. of Polling Stations</b></i>	<i><b>No. of Candidates</b></i>	<i><b>No. of Voters</b></i>
Jabalia	82	67	60,436
Gaza	183	92	120,483
Deir El Balah	72	50	54,538
Khan Younis	106	66	69,472
Rafah	55	27	42,703
<b>Total</b>	<b>498</b>	<b>302</b>	<b>347,632</b>

Source: *Ibid.*

When the elections took place, at least sixteen parties and movements participated, the most important of which were Fatah with 77 candidates, Palestinian People's Party with 26 candidates, FIDA with 11 candidates, the National Democratic Coalition with 5 candidates, and 503 candidates run the elections as independents. Approximately, 87% of the registered voters in Gaza Strip had actually voted, while only 73% of the registered voters in West Bank (including East Jerusalem), voted.<sup>412</sup> The high voting turnout of the Gaza Strip in comparison to the West Bank might be explained by the fact that Palestinians of the Gaza Strip- with exception to the elections of 1962 which

<sup>412</sup> Figures from the official Webpage of PLC <<http://www.pal-plc.org>>



took place under the Egyptian rule and was confined only to the members of the local committees of the ANU (estimated at 345 persons, see chapter II, Pp. 64-65) - had been denied the right of wide-scale political participation up until January 1996.

In contrast to the Palestinians of the Gaza Strip, the Palestinians of the West Bank had enjoyed this right under both the Jordanian rule and the Israeli occupation. In April 1950, around 175,000 of West Bank's Palestinians participated in the first legislative elections which held after the annexation of West Bank to Jordan (see chapter II, P. 68). In October 1956 further tens of thousands of these Palestinians participated in the legislative elections which held at that time (see chapter II, P. 70). After the Israeli occupation of West Bank in 1967, these Palestinians were allowed to practice their right of political participation through the local elections of 1972 and 1976 (see chapter II, Pp. 80-81, 88-90). Because of this history of relative democratic freedom the West Bank Palestinians were not as hungry for their right to vote as their Gaza Strip counterparts. This is why, as it seems, the turnout was lower in the West Bank than in the Gaza Strip which follows a long historical precedent.

Despite this, West Bankers were represented in the council more than Gazans, with 51 seats went to them as against to 37 seats went to Gazans.<sup>413</sup> The geographical differences between the members of West Bank and their Gaza Strip counterparts did not imply differences in the political orientation. The majority of these members (Gazans and West Bankers alike) were either affiliated with Fatah, or close to Fatah. The Fatah party had, in fact, dominated most of the PLC seats; 50 seats going to the party's candidates, 36 seats to independents, out of which 21 were close to the party, and two seats to FIDA and National Democratic Coalition.<sup>414</sup> Consequently, the 88 seats of PLC were distributed as the following table illustrates.

<b>Political Affiliation</b>	<b>Number of Seats</b>
Fatah	50
Independent close to Fatah	21
National Independent	15
FIDA	1
National Democratic Coalition	1

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<sup>413</sup> Ibid.

<sup>414</sup> Ibid.

The seeds of Fatah's dominance over PLC were sown by the Palestinian electoral law, which stipulated, as we have seen above, the majority system instead of proportional representation, and divided WBGS into sixteen constituencies. In so doing the law left little chance for small factions and parties which enjoy little in the way of a national following to be represented in the council. In October 1995, three months prior to the elections, all Palestinian parties and factions (including PFLP, DFLP, Hamas, Islamic Jihad, and others) enjoyed a national following ranged between 0.1 and 10.7%, compared to more than 41% for Fatah.<sup>415</sup> Fully aware of this, the main Palestinian parties after Fatah--Hamas, Islamic Jihad, PFLP, and DFLP--boycotted the elections, arguing that the law favoured Fatah and was structured in a way that would ensure Fatah dominance over the PLC.

But it should be emphasized that these factions' and parties' boycott of the elections was not merely due to the structure of the electoral law, but it was in principle due to their opposition to the Oslo process, and what might be derived from such a process, including the elections. On 16 January 1996, just four days before the elections, Hamas declared that the elections should be boycotted because it; "represented the legitimisation of Oslo process, was to take place under the shadow of occupation through which the Israelis maintained control over all aspects of Palestinian liberty, and failed to take into account the Palestinian refugee population in the Diaspora". Within two days of Hamas making their position public Islamic Jihad, PFLP, DFLP all concurred and published pamphlets to this effect.<sup>416</sup>

Despite their principle opposition for Oslo process, the position of these parties toward the electoral law gained the support of some foreign institutions concerned with democratic process, including the International Commission of Jurists, which called on the PA to change the electoral law by introducing a proportional

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<sup>415</sup> JMCC's Poll No.10 online <<http://www.jmcc.org>>

<sup>416</sup> In fact, rounds of negotiations were held between the PA and these parties, with Hamas in particular, in Cairo during December 1995 with the aim of convincing Hamas, which took the leading role in the opposition, to change its position. In these negotiations, the PA showed readiness to enable Hamas to take part in the government institutions within the context of the Oslo process. But this position was rejected by Hamas which considered itself unbound by the terms of Oslo, and which also refused to dissolve its military apparatus. This fact left the negotiations between the two sides unproductive, and therefore, Hamas declared boycott for the elections. For these rounds of negotiations see *Al-Hayat Al-Jadeeda* on 11, 13, 18, 20, 21, 23 December 1995. And for the position of these parties on the elections see *Al Nihar* on 17 & 19 January 1996.

representation system. According to one international foreign observer “...90 percent of the abuses in the elections occurred well before the election itself and took place in full public view.”<sup>417</sup>

Clearly, the majority representation system stipulated by electoral law paved the way for these abuses to take place. Usually, such a system is appropriate for an ideologically and socially homogenous community. However, in the case of an ideologically and socially heterogeneous community, like the Palestinian one, then the most appropriate system is proportional representation. Only this system guarantees the representation of various ideologies and groups in state institutions.

The implementation of a system like the majority representation system, therefore, facilitates the representation of only the dominant ideology or social group, in this case the Fatah party, and the exclusion of other parties and factions from the government institutions. This was to give Arafat- who won the presidency of PA with more than 88% of the votes as apposed to 9.5% of votes for Samiha Khalil, one of the opponents of the Oslo accords, and ran for the presidency alongside Arafat-<sup>418</sup> the freedom to implement his policy of exclusion/inclusion of his opponents/supporters, which he follows within the context of his “neopatrimonial” system (for this system see chapter III).

In addition to this problem was the division of the West Bank and Gaza Strip into sixteen constituencies. Given the tribal nature of the Palestinian society, this division promoted a tribal or familial fanaticism particularly in the constituencies dominated by big families such as in Khan Younis where families like Al Aga, Al Farah, Al Astal, Barbakh, and Al Masri (among the *ayan*) enjoyed historical status.

For example, during the elections one of these families sought to impose their own candidate through illegal means. This happened when relatives of Zakaria Al Aga (who ran the elections on Fatah ticket and won only 800 votes) discovered Al Aga's failure in the elections. In reaction, they sought to replace the ballot box with forged ballots so that he would win. This action provoked the family of Barbakh whose

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<sup>417</sup> Robinson, op.cit., P.196.

<sup>418</sup> *Al-Hayat Al-Jadeeda* on 22 January & *Palestine Report*. Vol. 1, no.35, January 24, 1996.

candidate won 7,000 votes, and was placed second after Abdel Al Karim Abu Saleh (who ran the elections on Fatah ticket, and won the highest number of votes estimated at 8,000). Though, legally speaking, Barbakh was the one who should be announced winner, the victor list excluded Barbakh to list Al-Aga instead. Clashes, accordingly, broke out between the members of Barbakh family and the Palestinian police, and left six of Barbakh family wounded.<sup>419</sup>

A similar incident occurred in Ramallah constituency when Mustafa El Barghuti, who ran for election on the People's Party ticket was announced as winner, but after about half an hour, the victors' list was amended to list Marwan El Barghuti (running for election on the Fatah ticket), instead of Mustafa.<sup>420</sup> Both incidents, promoted by the ideological division (alongside tribal lines), prove that the PA, through these elections, deliberately sought Fatah hegemony over the PLC, and the exclusion of the other political factions.

More importantly, it showed that the action of some Palestinians remained guided by principles other than rational ones. The absence of rational-based action among some Palestinians would have negative impacts over the prospects of advancing complete free and fair elections. This problem was not confined only to the electors, but extended to include the candidates, some of whom arrived to the polling stations in the elections days with the intention of influencing the decision of the electors.<sup>421</sup>

Parallel to these problems was the hostile attitude that the Israeli authorities adopted towards the election. This was most evident in Occupied East Jerusalem and took on a number of different forms. The Israeli authorities prevented the candidates from putting up posters or advertisements on cars. They further restricted the candidates' capacity to reach the electorate by only allowing them to hold public meeting in certain places.<sup>422</sup> On the 15<sup>th</sup> of January there also appeared a poster, written and distributed by the so called the 'Young Generation of the Likud Party'. The poster's clear intent was to dissuade voters from participating in the election. It threatened the

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<sup>419</sup> See *Al Bilad* on 22 January 1996.

<sup>420</sup> Lamis Andoni. "The Palestinian Elections: moving toward Democracy for one-Party Rule". In *Journal of Palestine Studies*. Vol XXV, no.3 (Spring 1996), Pp.14-15.

<sup>421</sup> *Al Nihar* on 21 January 1996.

<sup>422</sup> *Al Hayat Al-Jadeeda* on 14 January, & *Al Nihar* on 15 January 1996.

voters that if they took part in the election they would have their Identification Cards removed. This was a particularly worrying claim to the Palestinian Jerusalemites as their I.D cards give them some extra rights and privileges though nothing like the rights and privileges enjoyed by Israelis.<sup>423</sup>

Despite these problems, the elections had been described by Carl Lidbom, head of the European Union election observers, as “largely fair” and “accurately reflect<ing> the aspirations of the Palestinian voters”.<sup>424</sup> On 12 February 1996, thus, Arafat swore himself in as the first elected president of the PA, and on 7 March the PLC, addressed by Arafat and Salim Za’nun, PNC acting president, was inaugurated.

### ***The PLC: Toward a Parliamentary Institution***

The inauguration of the Council raised great hopes and expectations among Palestinians. Mohammoud Abbas (Abu Mazen) declared that “the elected Council is five minutes away from the announcement of independence, and the Council will declare independence during its three-year term”.<sup>425</sup> Upon its inauguration the Council began to institutionalise itself as a step towards its goal of Palestinian independence. Ahmad Qrieh was elected as council speaker, beating his closest rival, Haider Abdel El Shafi, by about 20 votes.<sup>426</sup> A Standing Order, comprised of 115 articles, was laid down.<sup>427</sup> Its preamble provided “the principle of separation of powers... the independence of legislative authority and its right to legislate and monitor and hold accountable the executive authority... is a first and necessary step toward independence and building a democratic society.”

The Standing Order established the PLC’s internal procedures and structure as well as the mechanisms of legislation, accountability, and monitoring. Article 16 provided for the Council’s annual term, starting in March of every year, and divided it into two periods, each lasting for six months. Article 18 specified the attendance of an absolute

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<sup>423</sup> *Al Nihar* on 16 January 1996.

<sup>424</sup> *Palestine Report*. Vol. 1, no.35, January 24, 1996.

<sup>425</sup> *Al Hayat Al-Jadeeda* on 22 January 1996 & *Ibid*.

<sup>426</sup> *Palestine Report*, Vol. 1, no.42, March 15, 1996.

<sup>427</sup> The PLC’s Standing Order had been frequently revised. The most updated version had been approved by PLC on 7 June 2000. This version is the one upon which the discussion is based. For this version see PLC official webpage <<http://www.pal-plc.org>>

majority (half the council members plus one) as pre-condition for regarding any session as legal.<sup>428</sup>

Articles 2 & 4 stipulated that at the beginning of each term the council re-elect its “Office Commission” comprised of the council speaker, the speaker’s first and second deputies, and the council secretary-general. The Commission was empowered to supervise all the administrative, financial, legal, information, and public relations issues. More importantly, it was charged with following up the implementation of Council resolutions (Article 11).

The head of the Commission (the Council speaker) is held to represent the Council, and to preside over its sessions. At the inaugural session Nahid Munir El Rayes and Mitri Abu Aita were elected the speaker’s first and second deputy respectively; Rawhi Fatoh was elected the Council’s Secretary-General.<sup>429</sup> Furthermore, the Council set up its own committees to study and review plans, programmes, agreements, and to perform major tasks in such fields as legislation, accountability, and monitoring.

Article 48 of the council’s Standing Order identified two kinds of committees; permanent committees and ad-hoc committees (formed for a specific purpose and terminated upon the conclusion of their work). According to the same article, 11 permanent committees were set up: the Jerusalem affairs committee, the land and settlement committee, the refugees affairs committee, the political committee, the legal committee, the budget and financial affairs committee, the economic committee, the interior committee, the education and social affairs committee, the monitoring and human rights committee, and the Council’s affairs committee.

Any member of the PLC is eligible to nominate themselves for any committees. Usually, the nomination for these committees takes place at the beginning of each term of the PLC. The Council Office Commission, whose members are denied the right to nominate themselves for these committees, is the body which supervises the

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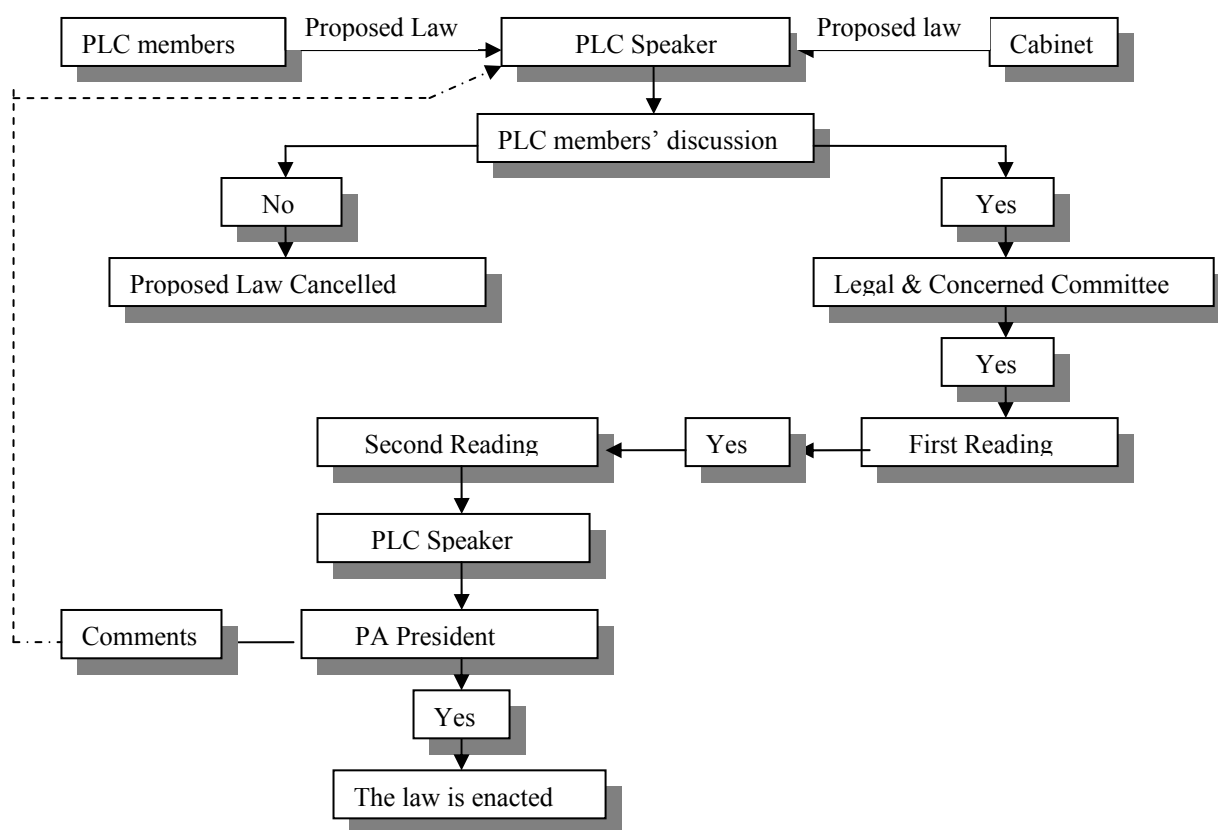
<sup>428</sup> The Council sessions were to be alternated between West Bank and Gaza Strip, and two branches for the council were established so that the problem of closure, which denied several West Bank PLC members right to attend the inaugural session in Gaza, is overlapped. See *Palestine Report*. Vol.2, No.31, January 17, 1997.

<sup>429</sup> The Council Speaker as well as his two deputies and the secretary general were affiliated with Fatah. Qrieh was elected for Jerusalem constituency, while El Rayes, Abu Aita, Fatoh, were elected for Gaza, Bethlehem, and Rafah constituencies, respectively. See *Palestine Report*. Vol. 1, No.42, March 15, 1996.

process of elections for these committees, before presenting the final list of nominees to the Council for final approval (Articles 49 & 51).

The Standing Order also laid down the procedure of legislation, monitoring, and accountability. Articles 65 & 66 stipulated that either the Cabinet or PLC members might propose a draft law, two readings of which would be required. In most circumstances both the relevant and legal committees of the council have the right to review a draft law passed by either the Cabinet or PLC members. Upon the approval of the draft law by these committees, it is presented to council members for first reading approval. An absolute majority is needed to approve the law in its first reading (Art. 69).

Once the draft law is approved at the first reading, it is passed back to both the relevant and legal committees for further possible comments, before being presented to PLC members for second reading approval. If the draft law is approved at the second reading, it is passed to the PLC speaker, who, on behalf of the council, passes it to the PA President for ratification or comments (Art. 70). By virtue of article 71, the President has thirty days to comment or ratify draft laws. If the thirty days passed without word from the President, a draft law is considered in force and formally becomes a law that bounds every Palestinian in the autonomous areas. The PLC's mechanism of legislation is illustrated in the accompanying diagram.



At the level of monitoring and accountability, article 15 of the Standing Order empowered the PLC to extend/withdraw confidence in the cabinet or in any minister. Article 74 gave the Council the power to approve the PA's annual budget, and obliged the PA to present the next year's budget for the PLC two months before the end of the fiscal year. Furthermore, article 75 enabled every member in the PLC to question any minister over any issue of concern, and to call these ministers to testify at the Council sessions.

The PLC's Standing Order thus set the necessary norms upon which any democratic relation between the executive and legislative body rested. Through these norms, the Standing Order sought to strengthen the principles of accountability and transparency, and more importantly, to transfer to the PLC much of the power that is concentrated in the hands of the PA, in particular in Arafat's hands. From the council's point of view, as the preamble of the Standing Order makes clear, this is a pre-condition for building a democratic Palestinian state and achieving independence. The PLC thus considered itself to be engaged in battles on two fronts; the defence of democracy and the struggle for Palestinian national rights.



Toward this end, over the first four years of its inception (March 1996-March 2000/ the last term before the outbreak of the current *intifada*) the PLC held dozens of sessions and its committees convened vast numbers of meetings producing scores of reports, resolutions, and laws. In the first two years after its inception, for example, the PLC held no fewer than 30 sessions and its committees held around 260 meetings resulting in 72 reports, 92 resolutions, and 35 laws in different political, economic, legal, and social fields.<sup>430</sup>

Among the most important laws approved by the PLC over its first four years were the basic law or constitution for the interim period, the law of judiciary, and the NGOs law. The developments concerning these laws, and the means by which these laws were approved by the PLC might serve as empirical evidence to assess the type of relation that developed between the PLC and the PA during the first four years after the PLC's inception.

### ***The Basic Law, the Law of Judiciary, and the NGOs Law: Unsuccessful Attempts to Combat Arafat's Neopatrimonial System***

A most vital and urgent task of the PLC was the draft of a constitution or basic law for the interim period. Article 3 of the electoral law stipulated that the PLC should, as soon as it was inaugurated, draft a basic law that organizes the relations among the three authorities on the one side, and the relation of these authorities to the people on the other side. Toward this end, the PLC in its session no. 19 of the second term which held in Ramallah on 17 September 1997 approved the law at the second reading and passed it to Arafat for ratification or comment as provided by Article 70 of the PLC's Standing Order.<sup>431</sup> Arafat, in turn, failed to comment upon or ratify the law within the due legal period of 30 days as provided by article 71 of the PLC Standing Order. Instead of declaring the law in force, the PLC passed a third reading to Arafat in October 1997.<sup>432</sup>

Once again Arafat failed to comment on or ratify the draft law within the due legal period, and from then until the outbreak of the current *intifada* in September 2000, the

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<sup>430</sup> *Palestine Report*. Vol. 4, no.38, March 13,1998.

<sup>431</sup> Minutes of session no.19 of the second term.

<sup>432</sup> *Al -Hayat Al-Jadeeda* on 2 October 1997.

law remained blocked, so that Palestinians of the autonomous areas continued to lack constitutional recourse. Arafat's refusal to ratify the basic law implied his opposition to the principle of the separation of powers and the rule of law, since this principle was the most notable feature of the law that formed up to seven chapters with 112 articles.<sup>433</sup> Article 2 of the law, for example, considered the Palestinian people "the source of all power, which shall be exercised through legislative, executive, and judicial authorities based on the principle of separation of powers..."

Article 5 structured the governing system as "a democratic parliamentary system based on political and party pluralism.... The government shall be responsible to the president and to the Palestinian legislative council." Article 6 equalized the status of all Palestinians before the law; "the principle of the rule of law shall be the basis of government in Palestine. All authorities, powers, agencies, institutions and individuals shall be subject to law". Article 9 lodged great stress on the principle of the rule of law when it considered "all Palestinians...equal under the law and judiciary, without discrimination because of race, sex, colour, religion, political views, or disability."

Articles 10-33 emphasized basic human rights including civil, political, economic, and social rights: the right to freedom of expression, the right to freedom of peaceful assembly, the right to freedom of belief and the performance of religious rituals, the right to fair trial, the right to appeal, the prohibition of torture, the right to freedom of movement, the right to proper medical treatment, the right to housing, the right to work, the right to education, the right to political participation, and so forth. While Articles 43-48 asserted the council's main tasks of legislating, monitoring/accounting to the PA, and approving the PA's annual budget, article 54 (2) enabled the council speaker to assume the powers and duties of president in case of the president's absence for 60 days, during which free elections would be held for a new president.

The power and authority of the PLC was balanced by that of the President. Article 55, for example, placed the Palestinian security forces under Presidential command. Furthermore, articles 57-65 & 100 enabled the President to propose, ratify, and promulgate laws, to issue decisions and decrees that have the power of laws, to enjoy

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<sup>433</sup> The English Text of the Basic Law is cited on  
<<http://www.miftah.org/Display.cfm?DocId=790&CategoryId=10>>

the right to pardon or to commute sentence, to appoint a cabinet not exceeding 19 ministers, to appoint the PA's representatives to foreign countries and international organizations, and to declare a state of emergency without PLC approval for a period not to exceed one month, after which the approval of two thirds of PLC members is required. A self-standing chapter (Articles 88-100) was devoted to judicial authority, asserting the principle of rule of law and the independence of the judiciary.

In short, Arafat seemed unwilling to tolerate any body rivalling his authority even if that body was democratically elected and, like the PLC, expressing the will of the people. Frustrated with Arafat's position on the basic law, Haider Abdel El Shafi resigned from the PLC on 28 September 1997, protesting what he described as Arafat's underestimation of the PLC role and his blocking of democracy: "My resignation came as a result of objective considerations and of contemplation as to our concerns and problems.... It is obligatory that the relationship of the Council with the president and his executive apparatus be one of coordination and cooperation on a constitutional basis organized by a basic law for the ratification of which we are still waiting."<sup>434</sup>

The basic law was but one sample of the many laws that had been approved by the PLC and remained awaiting Arafat's ratification. Ra'fat El Najar, a PLC member, confirmed to me that 70-75 laws had waited Arafat ratification since PLC inauguration in 1996 up until 2000.<sup>435</sup> Among these laws was one concerning the judiciary. There is no doubt that the independence of the judiciary is a vital condition for establishing the rule of law. The prospects of achieving independence of the judiciary is weakened when there is no law determines the duties of judges; the way they are appointed, paid, promoted, delegated; the procedure for their resignation, retirement, and so forth. These issues if left unspecified by law create the potential for executive authority to intervene in the judicial system, and consequently the independence of the judiciary is weakened, and thereby the rule of law is stifled.

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<sup>434</sup> *Al Quds* on 17 October, 1997 & Abdel Shafi's letter titled "in the name of Duty and Honesty", first appeared in *Al-Hayat Al Jadeeda* on 17 December 1997. An English translation of the same letter is cited in *Palestine Report*. Vol. 4, no.29, January 2, 1998.

<sup>435</sup> Interview on 7 October 2004.

Fully aware of this, the majority of the 78 PLC members who attended the eighth session of the PLC in Ramallah in the period of 23-25 June 1998 approved the law of judiciary in the first reading.<sup>436</sup> In the following two months, the PLC intensified its deliberations over the law until it was approved at the second and third readings in its sessions held in Ramallah in the period of 10 August -2 September 1998. On 5 December the council passed the law to Arafat, asking for his comments or ratification. But the fate of the law was similar to the one of the Basic law, as Arafat did not ratify or comment the law, and the law remained blocked during the interim period.<sup>437</sup>

Arafat's refusal to ratify the basic law, as well as others including the law of judiciary, prompted the PLC member Ziad Abu Amr to describe the PLC as "institution to draft laws...without capacity to pressure the PA to comply with these laws".<sup>438</sup> But even the right of the PLC to draft its own version of laws is sometimes denied it by the PA. An interesting example of this is the law of NGOs. The Law was approved in the second reading during the tenth session of PLC held in Ramallah on 28-30 July 199.<sup>439</sup> In August, the PLC passed the law to Arafat for comment or ratification. Arafat failed to comment or ratify the law within the due legal period of the 30 days. Instead of declaring the law in force, the PLC passed a third reading to Arafat in December 1998<sup>440</sup>

Once again, Arafat refused to ratify the law within the due legal period and, more importantly, rejected article 4 of the law that empowered the Ministry of Justice to licence any NGO in the PA's autonomous areas. Arafat demanded the Ministry of Interior be empowered with this right. Arafat's demand was rejected by the PLC in its fifth session of the forth term on 22 May 1999.<sup>441</sup> Instead, the PLC insisted the Ministry of Justice act as the point of reference for any NGO. The PLC's position enjoyed the support of Palestinian NGOs, for whom contribution to PLC's version of the law was significant during the meeting held between NGOs representatives and

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<sup>436</sup> Minutes of the eight session of PLC third term, *Al Quds* on 25 June, and *Al Hayat Al Jadeeda* on 26 June 1998.

<sup>437</sup> Minutes of eleventh & fourteen session of PLC third term.

<sup>438</sup> Interview on 9 May 1998.

<sup>439</sup> Minutes of the PLC third term sessions (March 1998-March 1999).

<sup>440</sup> Ibid.

<sup>441</sup> Minutes of Palestinian Legislative Council Forth Term's sessions (March 1999-March 2000).

members of the PLC's political committee in Al-Bireh and Ramallah on 20 July 1998 (the meeting being held to discuss the first reading of the law).<sup>442</sup>

Nevertheless, and in a surprising fashion the debate over the law was settled when Ahmed Qrieh (better known as Abu Ala') announced during a special session convened on 12 August 1999 by the PLC to discuss the PA's 1999 budget that the law would incorporate Arafat's comments regarding force. However Qrieh, by then the PLC's Speaker, claimed that the voting on Arafat's comments which had taken place during the 22 May session was insufficient; only 37 members out of the 50 who attended that session had vetoed the comments, making the vote unsuccessful for lack of the necessary absolute majority (half of the 88 PLC members + 1) stipulated in article 71 of the PLC's Standing Order.<sup>443</sup>

While Qrieh's claim was correct from a legal point of view, it was also correct in that there was in fact no absolute majority present to accept the comments of Arafat. The time and the manner in which Qrieh made his announcement reflected this fact. Kamal al-Shrafi, who headed the PLC's Monitoring Committee, pointed out that Qrieh's announcement occurred "while members were leaving the hall at the end of the session...no one was paying attention".<sup>444</sup> Mawaia El Masri, a PLC member, confirmed al-Shrafi's observation by adding that "what happened evidences the partnership that had developed between PA and the council speaker and other members".<sup>445</sup>

The partnership between the PA and some members of PLC was necessary for Arafat to implement his system of neopatrimonial. As we have seen in chapter III (Pp. 161-174) the success of this system is reliant on the absence of any prescribed legal norms that might restrain the patron's action. In our case the prescribed legal norms were the Basic Law, the law of Judiciary, and the PLC version of the NGOs law. The blockage of the basic law meant that Arafat was free from any constraints over his action. While the blockage of the law of judiciary meant that there was no independent judiciary, and thus, the abrogation of the central pillar of the rule of law.

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<sup>442</sup> *Al-Hayat Al-Jadeeda* on 21 July 1998.

<sup>443</sup> "PLC's Standing Order", op.cit.

<sup>444</sup> Interview on 6 September 1999.

<sup>445</sup> Interview on 20 August 1999.

Furthermore, the enactment of the NGOs law according to Arafat version meant that Arafat had personal supervision and control over the work of these institutions since he was the one who held the interior profile. All of this would enable Arafat to:

1. Rule by law instead of the rule of law. In the later case all citizens are treated as equal before law, while in the former case the law is selectively invoked and implemented according to Arafat's own interests. In such circumstances Arafat's clique or 'clients' benefit the most, since they can stand above the law, and thereby enjoy enormous privileges.
2. The previously mentioned situation encourages a social conflict in which various social groups engage in stiff competition to gain the patronage of the patron (or Arafat) since this is the only way to enjoy access to power and wealth. Consequently, the patron can remain the centre of gravity, and the one who ultimately controls the strings of the game. But because the sustainability of this system remains reliant on the ability of the patron to control the public fund, and to control the decision with regards to its distribution, Arafat and his authority, as we will see in the next section, abrogated PLC's attempts to regulate the decision making process with regards to how the budgets are presented and approved.

### ***On the Budgetary Conflict between PLC and PA***

According to article 74 of PLC's Standing Order the Cabinet is legally obliged to present the next year's budget to PLC two months before the end of the fiscal year.<sup>446</sup> In October 1996, the PLC called the Cabinet to pass the 1997's budget so that it could comment or approve it. The Cabinet turned PLC's demand down, and let five months elapse before it passes the budget to PLC on 16 March 1997.<sup>447</sup> The Cabinet decision to pass the budget came against a PLC stormy session held in Ramallah early

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<sup>446</sup> On 3 August 1998, Arafat ratified the so called "the law of Public finance". Article 3 of the law obliged the cabinet to present the next year's budget to PLC two months before the end of the fiscal year. In case the budget, for one reason or other, had not been approved by PLC, then Minister of Finance is empowered to spend at rate of around 8% (1/12) of previous year's monthly expenditure for up to three months (art. 4). See *Al Waqaea'*, op.cit., no. 25, 5<sup>th</sup> year, 24/9/1998.

<sup>447</sup> *Al Ayyam* on 17 March 1997.

February 1997 during which a threat to pass non-confidence motion if the budget was not presented within two weeks, was made.<sup>448</sup>

In early March, PLC convened the session scheduled to pass a motion of non-confidence in the Cabinet after the latter failed to pass the budget by the set deadline. But no vote to withdraw confidence took place after Qrieh, PLC speaker, informed PLC members that he received a letter from Ahmed Abdel El Rahaman, Secretary General of the Cabinet, asking for further time slot to pass the budget. Dawood Al Zir, the secretary of budget and financial affairs committee, considered the letter an “indicator of the Cabinet’s manipulation and underestimation of PLC’s role...”<sup>449</sup> However, the Cabinet was granted the required time slot. On 16 March, the Cabinet passed the budget to PLC, which turned it to the committee of budget and financial affairs that is chaired by Sa’di El Krunz.

The PLC’s Standing Order obliges the committee to report the PLC over the budget, so that PLC could decide whether to approve/disapprove it. Toward this end, the committee convened a meeting for its members on 23 March after which a report on the budget was presented to PLC.<sup>450</sup> In its report, the committee asserted that most of the non-tax revenue (the revenue collected by the ministries and various public institutions in return for services provided for people) is not supplied to the treasury of the ministry of finance.

In addition, the committee highlighted the revenue of the semi-monopolies- like the Palestinian Company for Trade Services (Cement Company), the Palestinian Development & Investment Company, the Petroleum General Commission, and Tobacco Commission. In this connection, the committee asserted that the revenue of these monopolies was not connected to the central auditing system of ministry of finance according to the law,<sup>451</sup> and consequently, it asked the ministry of finance to pass a report on such revenue and the non-tax revenue within three months from the date of the PLC’s approval of the budget. Nevertheless, the committee had not made

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<sup>448</sup> *Al Hayat Al Jadeeda & Al Quds* on 5 February 1997.

<sup>449</sup> *Al Ayyam* on 7 March 1997.

<sup>450</sup> *Ibid*, on 24 March 1997.

<sup>451</sup> Extraction of the committee report is cited in *Palestine Report*. Vol. 3, no.1, June 13, 1997.

the PLC's approval of the budget conditional on this being done. The PLC, therefore, approved the budget on 27 May 1997.<sup>452</sup>

The approval of the PLC for the 1997's budget, notwithstanding the budget's deficits highlighted by the financial affairs committee, might be justified since the 1997's budget was the first to be debated between PLC and PA, and therefore the PLC might seek to avoid confrontation with the PA, in the hope that it (Cabinet) would respect the due legal time and not commit the same mistakes in presenting the 1998's budget. But the developments concerning the 1998's budget showed that the ministry of finance had neither corrected the deficit of the 1997's budget, nor the Cabinet respected the due legal time for the presentation of the budget.

In a similar fashion to 1997's budget, the Cabinet passed the 1998 budget to PLC in March 1998, five months after it was legally due.<sup>453</sup> Accordingly, the PLC's speaker entrusted Sa'di El Krunz to develop a report over the budget so that PLC could decide whether to approve it or not. On 21 April 1998, El Krunz held a meeting with representatives of the ministry of finance, to discuss the budget. At that meeting El Krunz proposed the same amendments he proposed for 1997's budget, and further suggested to add some US\$ 14 million to ministry of education's allotment.<sup>454</sup> However, the Cabinet failed to revise the budget according to El Krunz's proposals, and consequently, the PLC scheduled a session for 14 June to pass motion of non-confidence in the Cabinet.<sup>455</sup>

On 14 June, the PLC convened its scheduled session. But in a similar fashion of 1997's budget, PLC speaker informed PLC members that he received a letter from Arafat asking for further time slot, and promising a Cabinet reshuffle at the end of June. Accordingly, PLC refrained from passing motion of non-confidence in the Cabinet waiting the promised reshuffle. Though the promised reshuffle was not announced before August, PLC, after being informed by Al Krunz that the Cabinet approved most of the committee amendments but not those related to the semi-

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<sup>452</sup> *Al Hayat Al Jadeeda*, on 28 May 1997.

<sup>453</sup> Minutes of the third session of PLC third term on 30 March 1998.

<sup>454</sup> *Al Hayat Al Jadeeda* on 22 April 1998.

<sup>455</sup> *Al Quds* on 28 May 1998.



monopolies, approved the budget on 29 June with majority of 37, 22 objections, and 6 abstentions.<sup>456</sup>

PLC's approval of 1998's budget, and its failure to adopt any serious measure against PA's disregard of the legal norms, encouraged the Cabinet, once again, not to respects these norms, and to pass 1999's budget on 5 April 1999, six months after it was legally due.<sup>457</sup> At this time, Azmi al-Shu'abyi, minister of Youth and Sport in 1994's Cabinet, and the one who was elected to PLC on FIDA ticket, was chairing the PLC financial affairs committee instead of Al Kruz who was appointed minister of Industry in 1998's Cabinet.

In a report presented to PLC on 21 April, al-Shu'abyi criticized the high rate of the PA's operational expenses (e.g., postage, phones, business travel, utilities and printing, and so forth), and the irrational appointments in the Palestinian bureaucracy which, according to him, were very harm to PA treasury, and denied important ministries like health, and education, the sufficient fund to supply people with proper health, and education services. Consequently, he called PA to rationalize the bureaucracy through enacting a civil service law, and to connect the revenue of the semi-monopolies to the central auditing system of ministry of finance according to the law.<sup>458</sup>

Al-Shu'abyi's criticisms of the budget forced the Cabinet to amend some of the budget's items through allocating further NIS 2 million (about US\$ 500,000) to the ministry of health, and cutting some NIS 36 million (about US\$ 9 million) from the operational expenses.<sup>459</sup> These amendments, which promoted a PLC cancellation of a session scheduled for mid-July to discuss the financial affairs committee report, were welcomed by PLC, and considered by Qrieh as "a positive development from the Executive Authority and a major step in the Authority's handling of the budget". Dawood Al Zir, secretary of PLC's financial committee, went further and hinted the possibility of cancelling the committee report on the light of the Cabinet

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<sup>456</sup> *Arabic News* on 1 July 1998. Internet English edition

<<http://www.arabicnews.com/ansub/daily7day/980701/1998970118.html>>

<sup>457</sup> *Al Ayyam, Al Quds, Al Hayat Al Jadeeda*, on 6 April 1999.

<sup>458</sup> *Al Quds* on 22 April 1999.

<sup>459</sup> *Al Hayat Al Jadeeda* on 15 July 1999 & *Palestine Report*. Vol. 6, no.8, August 11, 1999.

amendments.<sup>460</sup> Nevertheless, al-Shu'abyi adopted different position recommending not approving the budget up until the mentioned amendments (mainly the enactment of a civil service law) are implemented. Consequently, PLC decided to postpone voting on the budget after the summer recess.<sup>461</sup>

In November, upon a various meetings held with representatives of PA apparatuses including the ministry of finance, al-Shu'abyi confirmed to PLC, during a session held to discuss the extent of the Cabinet commitment to the proposed amendments, that the Cabinet failed to implement any of the proposed amendments, and consequently, he recommended, in a report presented to the PLC speaker Qrieh, to pass motion of non- confidence in the Cabinet.<sup>462</sup> However, Qrieh turned al-Shu'abyi's report down, and refrained from circulating it to PLC members for their comments. Angry with Qrieh's clear underestimation of his report, al-Shu'abyi announced resignation as head of financial affairs committee on 14 November. On 24 November 1999, Qrieh endorsed al-Shu'abyi's resignation, and appointed Dawood El Zir as head of the financial affairs committee.<sup>463</sup>

The developments concerning the budgets of the first three years (1997, 1998, 1999), and the budget of the forth year (2000) which was passed to PLC in January 2000, three months after it was legally due,<sup>464</sup> show clearly how PLC, over the first four years of it's inception, failed to force the PA to comply with the legal norms that were laid down to organize both authorities' relation. Of particular concern were those developments which are related to 1999's budget. The failure of PLC to adopt any measure against Qrieh's refusal to circulate al-Shu'abyi' report for its members' comment, and it's endorsement of al-Shu'abyi resignation meant a PLC approval of the budget despite the fact that it was severely overdue, and included many deficits as the report of the financial affairs committee pointed. At another level, these developments strongly highlighted the weakness of PLC vis-à-vis PA, and its failure to combat PA's continuous attempts to marginalize its role.

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<sup>460</sup> *Palestine Report*. Vol 6, no.8, August 11, 1999.

<sup>461</sup> *Al Hayat Al Jadeeda* on 12 August 1999.

<sup>462</sup> *Ibid* on 27 October & *Al Ayyam* on 15 November 1999.

<sup>463</sup> *Al Ayyam* on 15 & 25 November 1999.

<sup>464</sup> *Ibid* on 27 January 2000.

### ***PLC's Weakness vis-à-vis PA: Factors and Conditions***

Continuously, PLC members blame PA for blocking democratic transformation and stifling the rule of law. Youssef Abu Safiah, a PLC member, described the relation of PLC with PA as “abnormal....since most of PLC resolutions, and some of its laws, had not been implemented....it is well known that there is always competition between the executive and legislative authority...in the Palestinian situation PA is seeking to marginalize the PLC”.<sup>465</sup> Though Abu Safiah's statement are well supported by the empirical realities explained in the above-mentioned discussion with relation to the basic law, NGOs law, the law of judiciary, and the annual budgets- his statement revealed only one side of the coin.

The failure of PLC to pressure the PA to comply with its Standing Order, and to enact the basic law and other laws, was not only due to PA's underestimation of democratic principles, but also to PLC's structure and its failure to build strong ties with its constituencies. While the former factor (PLC's structure) left PLC missing the will to adopt any serious measure against PA's regular underestimation of democratic principles, the later factor (its failure to build strong ties with its constituencies) left it as a victim to PA's manipulations. Similar to any legislature, the PLC was franchised right to hold the executive body accountable by means of motions of no-confidence, ad-hoc committees of inquiry, and other methods of monitoring. But the problem of PLC in this respects is that it is neither structurally nor culturally able to effectively use such methods.

At the head of PLC stood the Fatah affiliated Qrieh as speaker, and Rohi Fatoh as secretary. Both men are considered as loyalists to Arafat, and were elected speaker and secretary respectively for four consecutive years. The other two members of PLC Office Commission were either a Fatah-affiliated or close to Fatah. During the first term, for example, Nahid El Rayes (a Fatah affiliated PLC member) and Mitri Abu Aita (independent close to Fatah) were elected the first and second deputies of the speaker respectively.<sup>466</sup> During the second term, the same members of the Office Commission were re-elected. And during the third and forth terms Ibrahim Abu El

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<sup>465</sup> Interview on 7 May 1998.

<sup>466</sup> *Palestine Report*. Vol 1, no.42, March 15, 1996.

Naja (a Fatah affiliated PLC member) replaced El Rayes, and in the forth term Ghazi Hanina (close to Fatah) replaced Abu Aita as the speaker's second deputy.<sup>467</sup>

As far as the political affiliation of PLC members is concerned, most of PLC members, as we have seen, are affiliated with Fatah or close to Fatah. Furthermore, all the Palestinian factions and parties that might challenge Arafat's policy and rule (like PFLP, Hamas, Islamic Jihad, and so on) had not been represented in the PLC after they boycotted the elections. This fact, according to Abu Safiah, left the structure of PLC as "[a] one-party structure...and consequently, PLC lacked a well organized bloc of opposition."<sup>468</sup>

However, the fact that PLC is dominated by Fatah affiliated members does not imply an organized bloc of support for PA or Arafat. In the words of Hanan Ashrawi, who ran the elections as independent and won the highest number of votes after Qrieh for Jerusalem constituency, "everybody who is in the council is not really part of the opposition in the sense that they are against the peace process. Those in the traditional opposition did not participate in the election. So what you have are different degrees of agreement and different perspectives and approaches..."<sup>469</sup> In some occasions it is possible to find voices of criticism against PA's policies among Fatah affiliated or close to Fatah members. Nevertheless, these voices remain expressing personal views, and often leave no significant influence on the overall relation of PLC with PA.

On 8-9 May 1996, for example, PLC held stormy session in Rafah south of Gaza strip, addressing the day-to-day problems of Palestinians. Among the issues which were discussed were Hamas' prisoners in PA's various detention centers. At that session the PLC adopted a resolution calling PA to release these prisoners and others.<sup>470</sup> In June, Salah Ta'mari, a former Fatah affiliated activist, and head of the land and settlement committee of PLC, called PLC not to extend confidence in Arafat's Cabinet unless PA implemented the PLC resolution that demanded the release of Hamas prisoners.<sup>471</sup>

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<sup>467</sup> Minutes of the third session of the third term. 7 March 1999.

<sup>468</sup> Interview on 7 May 1998.

<sup>469</sup> *Palestine Report*. Vol.2, no.31, January 17, 1997.

<sup>470</sup> *Ibid.*, Vo.1, no.50, May 17, 1996.

<sup>471</sup> *Ibid.*, Vol.2, No.4, June 28, 1996.

When Arafat presented his Cabinet to PLC in June 1996, Marwan Kanafi, former advisor of Arafat who was elected for Gaza constituency on Fatah ticket, protested PA's disregard of PLC's resolutions, and attacked Arafat by accusing him of breaking the electoral law stipulating 80% of cabinet ministers from PLC. Only 60% of the ministers in Arafat's 1996 Cabinet were PLC members.<sup>472</sup> In spite of Ta'mari, and Kanafi's criticisms of Arafat's policy, the PLC voted in favour of Arafat's Cabinet.

The debate around the 1996's Cabinet might reveal important fact about PLC's structure. Although some PLC members might stand as opponents for PA's disregard of the democratic principles and legal norms, these members remain missing the support and backing of their colleagues in the council. Most of these colleagues, who prefer not to go in direct confrontation with Arafat, refrain from supporting any serious measure against PA like the passing of motion of non-confidence. Abed Rabu Abu Uwn, a PLC member, estimates the number of these colleagues at 53 out of 84 PLC members (three PLC members died, and one resigned "Haider Abdel El Shafi"). This means that no less than 63% of the PLC members are considered, in the words of Abu Awn, "Arafat loyalists and clients".<sup>473</sup> Because they are Arafat loyalists, they tend to justify even Arafat/PA's disregard of democratic principles.

The PLC member Nabil Amr, for instance, ruled out Arafat's failure to ratify the basic law as indicator of his disregard of democratic principles. In his view, Arafat failed to ratify the law "because the law dealt with issues that are of dispute with Israel".<sup>474</sup> Abdel Karim Abu Saleh, head of PLC's legal committee, went in the same vein, when he pointed out that; "The law deals with issues like Jerusalem, and Palestinian refugees...these issues had not been settled with Israel...that is why the law is blocked".<sup>475</sup> Amr, Abu Salah, and other similar members like Qrieh and Fatoh, are considered PA's vanguard in PLC. Through these members PA succeeded to penetrate the PLC and divided it around itself in a manner that left it unable to adopt any serious measure toward PA's disregard of legal norms and democratic principles.

This fact was accompanied with the rise of networks of interests between some other

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<sup>472</sup> Ibid., Vol.2, No.2, June 13, 1996.

<sup>473</sup> Interview. On 6 October 2004.

<sup>474</sup> *Al Hayat Al Jadeeda* on 31 December 1997.

<sup>475</sup> Interview on 1 June 1998.

PLC members and PA officials. These networks of interests were the logical outcome of a PA deliberated policy sought to block the media reports on PLC activities. Due to this policy, people were very little aware over PLC achievements and activities, and consequently, their attitude toward PLC was a negative one. The *voice of Palestine*, the official Radio of PA, is the only media station that is permitted to cover PLC sessions.<sup>476</sup> In its coverage, Voice of Palestine is very selective, and usually covers those sessions which are attended by Arafat. The rest of PLC sessions are usually not covered, and local press reports over these sessions are obtained at wrap-up press conference made by PLC speaker at the end of each session. This weakened PLC's creditability among public, and prompted no less than 48% of Palestinians to think that PLC is useless and has no effects.<sup>477</sup>

Even when PLC seeks to work out its own media station so that general public became fully aware over its activities and achievements, its endeavours in this regards are abrogated. In 1997, for instance, the PLC, with financial support from USAID (United States Agency for International Development), established its own Television Station in Al Quds Education University to broadcast its sessions and activities. No less than six sessions of PLC were aired, before the broadcasts being jammed off by the Palestinian Broadcasting Company (PBC), the official T.V of PA. Following this, Dawood Kuttab, a Palestinian with American citizenship who was entrusted to run the station, was detained by the Palestinian security forces for a week before being released upon American intervention.<sup>478</sup> All the equipments and materials of the station were destroyed by Palestinian security forces, and thus, the station stopped working, and the sessions of PLC are no longer aired.

Being unaware over what PLC is, and what PLC's major tasks are, general public pressured PLC members to play intermediary role between them and policy/law implementation officials, including bureaucracy's officials. PLC members, seeking to recruit public support for their "battle" with PA, welcomed this role, and consequently, their tasks were confined, in some occasions, to assist public and their relatives in finding job in a given ministry, or to facilitate these public/relatives'

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<sup>476</sup> *Palestine Report*. Vol.2, no.31, 17 January 1997.

<sup>477</sup> According to JMCC Poll no.19, April 1997. Online <<http://www.jmcc.org>>

<sup>478</sup> *Palestine Report*. Vol. 2, no.49, May 16, 1997 & *Jerusalem Post* on 26 & 28 May 1997.

contact with a given ministry or public institution. As the PLC member Rawia El Shawa pointed out; “People weak awareness over the role of PLC...forced PLC to play other roles alongside its roles of legislation, accountability, and monitoring”.<sup>479</sup> Although this enabled some PLC members to claim popular support, it left negative impacts over the PLC as independent legislature, and consequently, weakened PLC’s capacity to hold PA accountable.

### ***The Tasks of Monitoring and Accountability: The PLC as Client for PA***

Similar to any legislature the PLC owned enjoyed the methods that would enable it to hold the executive body accountable, and to set limits on it’s transgressions. These methods were institutionalized by PLC’s Standing Order, and basic law. Among these methods were the questions, the ad-hoc committees of inquiry, and motion of non-confidence. Over first four years of it’s inception, the PLC directed hundreds of questions to ministers, security officials, and other policy/law implementation officials on different issues related to the operations of their ministries and services provided to people. During the second term, for instance, the PLC directed around 183 questions to these officials.<sup>480</sup> In 1997, the PLC questioned Ghazi El Jabali, head of civil police, Mohammad Dahaln, head of Gaza Preventive Security forces, and Jibril Al Rajub, head of West Bank Preventive Security forces, over the operations of their forces.<sup>481</sup>

In some occasions, PLC went further and directed questions to policy/law implementation officials over issues related to misuse of power and corruption. But these questions remained a matter of parliamentary practice without being followed by effective measures punishing those who were said to be involved in misuse of power and corruption.

On 23 January 1997, for instance, the PLC questioned the minister of supply Abdel Aziz Shaheen over the so called “the flour scandal”, in which Shaheen alongside the minister of finance were said to be involved in a scheme led to the selling of 5,000

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<sup>479</sup> Interview on 24 April 1998.

<sup>480</sup> *Palestine Report*. Vol. 4, no.38, March 13, 1998.

<sup>481</sup> According to the PLC member Rafa’t El Najar in Interview on 20 July 1998.

tons of expired flour to public. Though Shaheen testified before PLC at that session, he refrained from attending another session scheduled for further discussion over the same issue. No measure was taken against Shaheen or the minister of finance, despite the assertion of some PLC members, like Kamal al Shrafi, head of the monitoring committee, that “an amount of the flour was donated to our people and we are interested to know where that mount went. Did the money go to the PA or to pockets of some officials?”<sup>482</sup>

In the same token, the PLC formed several ad-hoc committees of inquiry over issues related to misuse of power and corruption. But the findings and resolutions of these committees remained unimplemented, either due to PLC’s failure to follow up these findings and resolutions, or to PA’s underestimation of these resolutions. Of particular concern in this regard is the PLC ad-hoc committee which was formed in 1997 to investigate corruption and misuse of power in various PA ministries and apparatus. The committee was inspired by the 600 pages report of General Monitoring Commission (GMC) which pointed out that some US\$ 323 million-almost 40% of PA’s 1996 budget- were misused and mismanaged by PA’s politicians and senior officials.<sup>483</sup> It formed up ten PLC’s members; Sa’di El Krunz (head), Youssef Abu Safiah, Hikmat Zied, Azmi al Shu’abyi, Fakhri Shaqqura, Marwan El Barghuti, Kamal al Shrafi, Hatem Abdel El Qader, Jamal El Shati, and Hassan Khrisha (for the membership).<sup>484</sup>

On 31 May 1997, the committee initiated its investigation. In it’s investigation, the committee was assisted by sub-committees set up for the purpose of carrying out field investigation in all ministries and public institutions mentioned by GMC report, and gathering the necessary documents and reports that might serve the committee in it’s investigation. In addition, the committee sent at least 40 letters for all the ministers and public officials who were said to be involved in corruption and misuse of power by GMC’s report, asking them to testify before it. Some of these ministers and officials had testified before the committee, and other refused. Among these ministers

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<sup>482</sup> *Palestine Report*. Vol.2, No.33, January 24, 1997.

<sup>483</sup> *Jerusalem Post* on 25 May 1997.

<sup>484</sup> Interview with Sa’di El Krunz on 15 July 1998.



was Nabil Sha'ath, minister of Planning and International Cooperation, who was interrogated for about six hours by the committee.<sup>485</sup>

On 29 July, the committee reported its findings to PLC. In its report, the committee asserted that some ministers, in particular to Nabil Sha'ath, Ali Qawasmeh, minister of Transportation, and Jamil El Tarafi, minister of Civil Affairs, were involved in misuse of power and corruption. Consequently, it called Arafat to dismiss these minister and others suspected of corruption, and to form new Cabinet from "technocratic and qualified professionals".<sup>486</sup>

Furthermore, the committee highlighted the institutional weakness of PA as far as PA's financial system is concerned. In this regards, it mentioned to the ministry of finance's lack of well defined procedure with respect to public expenditure. In addition, the committee criticized the involvement of some PA officials in trade activities in violation for the law. In this respects, it shed light on the semi-monopolies that operate outside PA's regular budget, and demanded to subjecting the revenue of these monopolies to the central auditing system of ministry of finance.<sup>487</sup>

The findings of the committee were the hardest blow for PA's ministers and officials, most of who refused to deal with them, asserting them "lies" and far from reality. Due to the ministers opposition of the findings, Arafat called PLC to set up another committee to review the findings of the former one, and to invite all ministers opposing the findings of the first committee to justify themselves before the new committee. Accordingly, a committee of nine PLC members was set up, and held various rounds of hearing with all the concerned ministers. According to El Krunz, and Abu Safiah, who joint the new committee, these rounds of hearings left little doubt among the committee's members that those ministers had been involved in misuse of power and corruption.<sup>488</sup>

Following the two PLC ad-hoc committee findings, PLC convened various meetings with Arafat pressuring for fundamental reform. Arafat, who promised a Cabinet

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<sup>485</sup> According to the committee member Youssef Abu Safiah in Interview on 26 May 1998.

<sup>486</sup> Excerpts of the committee report are cited on *Palestine Report*. Vol.3, no.8, August 1, 1997.

<sup>487</sup> Ibid., Vol.3, no.9, August 8, 1997.

<sup>488</sup> Interview with Youssef Abu Safiah on 26 June, and Sa'di El Krunz on 15 July 1998.

reshuffle, was in a serious stalemate when some sixteen ministers of his Cabinet preceded the promised reshuffle, and announced resignation in December 1997.<sup>489</sup> To release himself of such pressure, Arafat turned the resignation of the ministers down, and on 7 March 1998, he declared that “the Palestinian National Authority...has been playing a key role in what are difficult circumstances...the record reflects both achievements and failure, and this is the nature of government”.<sup>490</sup>

Corruption and misuse of power for Arafat, therefore, are a matter of mistakes that might take place in any government. Though Arafat’s view might be correct, it is incorrect that those accused of corruption and misuse of power should be not punished. Arafat’s Cabinet of 5 August 1998 implied the contrary.<sup>491</sup> In other words, the structure of the Cabinet implied Arafat’s disbelief on the necessity to punish the corrupted officials and ministers. All Ministers accused of corruption and misuse of power, like Nabil Sha’ath, Jamil El Tarafi, and Ali Qawasmeh, had kept positions in the new Cabinet.

Furthermore, and in clear violation for article 65 of the Basic law stipulating that “the Cabinet shall comprise of Ministers not to exceed Nineteen Ministers...,” Arafat stepped up the ministerial positions from 23 to 31. New seven ministers were added, most notable were Sa’di El Krunz, who chaired PLC’s committee to investigate corruption, and Youssef Abu Safiah, member of the same committee. Moreover, two of his most critics were fired; Abdel El Jawad Salah, who was demoted from minister of Agriculture to minister without Portfolio, and therefore, refused to join the new Cabinet; and Hanan Ashrawi, who turned the post of minister of Tourism down. Simply Arafat bought off the allegiance of the most active members of PLC committee to investigate corruption (El Krunz and Abu Safiah), and release himself from the pressure of those who are committed to real reform (Saleh and Ahsrawi).

When PLC, in a special session held in Ramallah on 5-9 August 1998, and attended by 86 members, approved the Cabinet with a majority of 55 members, 28 in

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<sup>489</sup> *Al Hayat Al Jadeeda* on 31 December 1997.

<sup>490</sup> See “Arafat’s Speech at PLC’s Third Term Opening”. In *Palestine Report*. Vol.4, no.38, March 13, 1998.

<sup>491</sup> See the presidential decree no.2 for the year 1998 concerning the Cabinet in *Al Waqaea’*, op.cit., no.26, 5<sup>th</sup> year, 26/11/1998.

opposition, and 3 abstentions,<sup>492</sup> Ahsrawi and Saleh were the most critical of Arafat new Cabinet. Ashrawi, for instance, considered it as an indicator of Arafat's reluctance to initiate real reform; "what is needed, Ashrawi asserted, "is not to maintain the old structure...but a substantial and comprehensive reform".<sup>493</sup> Saleh went further and described the new cabinet as "a real tragedy for Palestinians".<sup>494</sup> Although similar voices of criticism could be heard from other members,<sup>495</sup> these voices remained expressing personal view, and did not reflect the overall position of the PLC as a legislative institution.

In fact, here lies the tragedy of Palestinians. It is true that PA's policies are blocking the democratic transformation in Palestine. But this does not imply that PLC members were very committed to democratic transformation. In fact the contrary was the case. For instance, around 49 PLC members, according to Ra'fat El Najar, committed not to vote in favour of the ministers who were charged by misuse of power. These members did so during a private meeting of PLC members convened just few days before the scheduled date of the PLC session which passed motion of confidence in Arafat cabinet. However, and in a surprising fashion, at least 25 out of the 49 PLC members failed to meet their commitments and voted in favour of Arafat's cabinet.<sup>496</sup> In explaining the reasons of these members' refrain from meeting their commitments, El Najar highlighted Arafat's policy of buying off the allegiance of people through distributing various favours and privileges.<sup>497</sup>

Consequently, the crisis of democratic transformation in Palestine is not only related to PA's failure to respect the democratic norms, but extended to include the failure of PLC members to respect these norms including the basic law which stipulates, for instance, the Cabinet with 19 Ministers not 31 as the PLC-approved Cabinet showed. In approving the Cabinet, PLC, therefore, was participating in an equal footing with

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<sup>492</sup> Minutes of PLC's Third Term, in particular Minutes of the Special session held in Ramallah on 5-9 August, 1998.

<sup>493</sup> *Al Hayat Al Jadeeda* on 7 August 1998.

<sup>494</sup> *Ibid.*

<sup>495</sup> The PLC member Ziad Abu Amr, for example, wondered, "Where are the reform measures that we demanded? And how can we pass confidence in a Cabinet which members accused of corruption? " Ali Abu El Reesh, considered PLC approval of the Cabinet a shame, and called on PLC members "to apologize for those Ministers suspected of corruption". See *Al-Ayyam* on 9 & 10 August 1998.

<sup>496</sup> Ra'fat El Najar, Interview on 7 October 2004.

<sup>497</sup> *Ibid.*

PA in disregarding these norms, and confiscating the right of Palestinians to have legitimate political institutions. As El Najar pointed to the German *Neue Zürcher Zeitung* “how could anyone expect the Rais (Arafat) to take this body seriously...when it does not even implement it’s own decisions and the motion of censure?.”<sup>498</sup>

Furthermore, in approving the Cabinet the PLC was unwilling to response to people’s wishes and demands. At least 38% of Palestinians believed that the PLC should not pass vote of confidence in the Cabinet, as against 31% who believed the opposite. In addition, 33% of them believed that the new Cabinet will increase corruption in various PA apparatus, as against 23% who believed the opposite. Moreover, 32% supported the resignation of Ashrawi and Saleh as against 26% who opposed it.<sup>499</sup> Therefore, PLC members’ approval of the Cabinet was to detach PLC further from its people.

More importantly, the approval of the Cabinet meant the release of PA from any constraints imposed on it by what Jose’ Maravall and Adam Przeworski call “horizontal mechanisms”<sup>500</sup> of accountability. These mechanisms (e.g., motion of non-confidence), seek to set limits on the government transgression, make it possible to predict the government action according to institutionally prescribed norms. When these mechanisms are absent or ineffective, the government becomes unrestrained in its action, and thus, it becomes difficult for the one to predict its action. In this case, only the government interest, decided by the government itself, restrains the government transgressions, and the law turned to be an instrument in the hand of the government instead of being framework of constraints on its action. This was the case of PA following the PLC approval of the Cabinet in August 1998. The sequence of the events which followed the assault of some PLC’s members by PA’s security forces on 26 August 1998 might substantiate our analysis.

The assault took place while these members, alongside human rights activists, journalists, and others, were assembling before the house of a Hamas activist escaped

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<sup>498</sup> *Neue Zürcher Zeitung* on 22/23 April 2000. Internet English edition  
<<http://www.nzz.ch/english/background/background2000/background0004/bg000422g...>>

<sup>499</sup> See JMCC’s Poll no.28, August 1998. Online <<http://www.jmcc.org>>

<sup>500</sup> Jose’ Mar’ia Maravall & Adam Przeworski (ed.), *Democracy and the Rule of Law*. Cambridge: Cambridge University Press, 2003, P.9.

a Preventive Security Forces detention centre in Jericho. The assembly was protesting a siege imposed on the family of this activist by the preventive security forces. While PLC members were protesting against this measure, a number of West Bank preventive security forces attacked them. These members were; Abed Rabu Abu Uwn (elected for Rafah constituency), Jamal El Hindi (elected for Jenin constituency), Suleiman El Roumi (elected for Rafah constituency), Ahmad El Batish (elected for Jerusalem constituency), and Hassan Abdel El Qader (elected for Jerusalem constituency).<sup>501</sup> In Abu Awn's view, the attack was a planned one as these members were the ones who concluded the involvement of the head of the West Bank preventive security forces Jibril Al Rajub in a scheme led to the handing over six-Palestinian activists to Israeli occupying forces. The conclusions of these members were stated in a report presented to PLC just few months before the attack takes place.<sup>502</sup>

However, from PLC's point of view, the attack was an unprecedented event, and clear underestimation of its members' immunity. Consequently, PLC held special session in Ramallah on 30 August in which a committee to investigation the event was set up.<sup>503</sup> The committee comprised of the speaker, head of the Interior Affairs committee Fakhri Shaqqura, head of the legal committee Abdel El Karim Abu Saleh, and Head of the monitoring committee Kamal Al Shrafi.<sup>504</sup> In its investigation, the committee held several meetings with Palestinian security officials, among whom were Amin El Hindi, commander of General intelligence, and Ismail Jabr, head of Palestinian Security forces in Jericho. In spite of this, the committee failed to meet with Jibril Al Rajub, head of West Bank Preventive Security forces, and whose forces are the party that was held responsible on the assault of PLC members.<sup>505</sup>

The committee meetings with the mentioned security officials had, as it seems, bore no fruit since, following these meetings, the case was brought before a Military court to decide on the issue. Ironically, the court treated the assaulted PLC members on equal footing with those who were accused of the attack, and summoned both parties

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<sup>501</sup> Interview with Abed Rabu Abu Uwn, a PLC member, 6 October 2004.

<sup>502</sup> Ibid.

<sup>503</sup> *Palestine Report*. Vol. 5, no.12, September 4, 1998.

<sup>504</sup> Interview with Kamal Al Shrafi on 6 September 1999.

<sup>505</sup> Ibid.

to show up. Having heard the testimonies of both parties, the court was said to adopt some measures against those involved in the attack but not against the head of West Bank preventive security forces Jibril Al Rajub who commands these forces.<sup>506</sup>

As Abu Awn himself pointed out; “in the aftermath of the attack, I was called by Arafat for a meeting with him...During our meeting I told him what happened. Arafat in turn promised to punish Al Rajub. But unfortunately, no measure was taken against Al Rajub, and the findings of the PLC committees which called for trying him were to no vein”.<sup>507</sup> The words of Au Awn, coupled with the assault of PLC members by Preventive Security Forces, and PLC’s failure even to question Al Rajub over the event, revealed the intolerable weakness of PLC vis-à-vis PA, and the dilemma faced by PLC in its battle for democracy and rule of law. This dilemma had further escalated with the elapse of the interim period on 4 May 1999.

### ***PLC: Loosing Legitimacy***

Despite it’s failure, over the first three terms (March 1996-March 1999), to enact a constitution (the Basic Law), and other important laws like the law of judiciary, and to hold the PA accountable, the PLC remained (at least theoretically speaking), representing the public will, and therefore, was a legitimate body. But from 4 May 1999 onwards, PLC was no longer enjoying this privilege. As Article III of Oslo II stipulated, PLC and the president of the executive authority should be elected for the transitional or the interim period that elapses on 4 May 1999. Article II of the Palestinian electoral law reaffirmed the mandate of both PLC and the president of PA for a period no exceeds the interim period.

Consequently, the Oslo process and the electoral law, according to which the PLC was elected, confined PLC’s mandate to the interim period. The main problem is that; both Oslo process as well as the electoral law had not hinted what should be done after the elapse of this period. In other words, it was not clear whether Palestinians should hold new elections, or whether new bodies would replace the interim period-created bodies like the PLC.

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<sup>506</sup> Ibid.

<sup>507</sup> Interview with Abed Rabu Abu Uwn, a PLC member, 6 October 2004.

This legal dilemma resulted mainly from Oslo process' assumption stipulating that by 4 May 1999, negotiations over the third status issues (Jerusalem, refugees, settlements, borders, water, international relations, and others) would be concluded with agreement ensuring the implementation of the UN security council resolutions of 242, 338, and consequently, with a Palestinian state with new political institutions and constitution. Therefore, it seems that both Palestinian and Israeli negotiator were guided by this assumption, and thus, were unaware over other possible scenarios like the elapse of the interim period without an agreement over the final status issues.

The elapse of the interim period without Palestinian state on WBGS promoted serious legal questions as far as the future and legitimacy of the interim period-created institutions are concerned. On 20 April 1999, the political committee of PLC announced the termination of these institutions' mandate, and called for new presidential and parliamentary elections on 4 May, 1999.<sup>508</sup> The call of the political committee for new elections was not the first in kind, as Marwan Kanafi, a PLC member, was asking since January the Central Election Commission (CEC) to schedule these elections for May 1999.<sup>509</sup>

The call of the political committee and Kanafi for new elections sought to renew PLC's mandate and legitimacy. But their demand in this regards was missing the support of PLC itself which failed to make any single move toward new legislative and presidential elections.<sup>510</sup> The failure of PLC to organize these elections meant the denial of the right of people to "...reward or punish the incumbent government conditional on its action in office".<sup>511</sup> The only way to secure people with this right is the regular elections. The absence of regular elections implies the absence of the second pillar of any democracy: vertical accountability. PLC's failure to promote vertical accountability, complemented its failure to promote a horizontal accountability (as we have seen above), and thus, left the principle of check and balance, which locates at the heart of any democratic system, very much questionable.

With this failure, coupled with it's loss of the main source of it's legitimacy (the

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<sup>508</sup> *Palestine Report*. Vol. 5, no.43, April 30, 1999.

<sup>509</sup> *Al Hayat Al Jadeeda* on 25 January 1999.

<sup>510</sup> The full text of PLC's statement is cited on *Palestine Report*. Vol. 5, no.43, April 30, 1999.

<sup>511</sup> Maravall & Przeworski (ed.), op.cit., P.9.

people), the PLC started attaching itself to PA as the only source of its legitimacy. The way the PLC turned against its members who signed the “The Statement of Twenty” in November 1999 might be the best example that shows not only how PLC had attached itself to PA, but also how some of PLC members became looking for other institutional formula far from PLC to express their discontent and frustration with PA’s policies.

On 27 November 1999, eight PLC members<sup>512</sup> alongside twelve public figures published to public a statement accusing PA by following “a systematic methodology of corruption, humiliation and abuse against the people”, and described Oslo agreements as “a barter trade to enrich a number of corrupt people in the Palestinian Authority”.<sup>513</sup> The statement, titled “A Cry of the Homeland”, and locally known as the “Statement of Twenty”, promoted what might be described as a political earthquake in the West Bank and Gaza Strip.

Following this statement, PA security forces initiated a large-scale wave of arrest against those who signed it including; Abdel El Sattar Qassim, a professor of political science at Al Najah University of Nablus, Dr.Yasser Abu Safiah from Nablus, Adel Samara, a professor of Economics in Ramallah, Dr. Abdel El Rahim Kittani from Tulkarm, and Ahmed Qatamesh, national public figure, and the one who survived the longest ever under Israeli administrative detention. Furthermore, a house arrest was imposed on Bassam El Shaka, Nablus’s ex-mayor.<sup>514</sup> None of the PLC members who signed the statement was arrested. The task of punishing those members seemed to be entrusted to PLC itself.

On 28 November, PLC held a stormy session in Gaza to discuss the measures that should be taken against these members. The session concluded with a manifesto describing the statement as “attempt to drag Palestinians into civil war”, and threatened to leave immunity over PLC members who signed it if they did not retreat

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<sup>512</sup> These members are: Abdel El Jawad Saleh, Fakhri Turkman, Mawaia El Masri, Husam Khader, Hassan Khrisha, Ali Abu Reesh, Rawia El Shawa, Ra’fat El Najar. See *Palestine Report*. Vol. 6, no.24, December 1, 1999.

<sup>513</sup> Ibid.

<sup>514</sup> *Law’s Press Release* on 28 November 1999 & *Al Quds Al Arabi* on 29 November 1999.



their accusation, and apologize for Arafat.<sup>515</sup> PLC's statement seemed insufficient from PA's point of view, as in the same day when PLC declared its condemnation of the statement, Mawaia El Masri, a PLC member, and one of signatories, was shot in foot with three bullets by unidentified armed men."<sup>516</sup> Following this, Abdel El Jawad Salah, a PLC member, and other signatory, was beaten by PA's General Intelligence Forces while he, and others, were marching before the Jericho's detention centre in protest against the detention of some of the signatories.<sup>517</sup>

Ironically enough, the "Statement of Twenty" had only reaffirmed what had been stated in GMC report, and the report of PLC's committee to investigate corruption in 1997. Both reports were approved by the PLC, and the latter one was drafted by PLC members. Consequently, there was no reason for PLC to condemn the statement unless it turned against itself and against its committees that constitute the building blocks of its institutional identity as a legislature. Actually this happened. Once the PLC condemned the "Statement of Twenty", it condemned the report of its committee to investigate corruption, and any other report and resolutions calling for the rationalization of the Palestinian public institutions.

Providing this, one will have little doubt over the failure of PLC committee (which was formed on 24 December 1999 to investigate the attack on Saleh,<sup>518</sup>) to pressure the PA to comply with its resolutions and to hold those accused of the attack accountable. According to Mawaia El Masri, the committee convened several meetings with a number of security officials, and questioned the security personnel who were held responsible on the attack. Some of these personnel admitted their involvement in the attack, while the head of the General intelligence in Jericho confirmed the attack but accused Saleh of attacking the security personnel first.<sup>519</sup> Hassan Khrisha, member of the committee, confirmed El Masri's comments, adding that those involved in the attack will be brought before justice.<sup>520</sup>

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<sup>515</sup> *Al Quds Al Arabi* on 2 December 1999.

<sup>516</sup> *Ibid* & *Al Hayyat Al Jadeeda* on 3 December 1998.

<sup>517</sup> Al Haq's Press Release on 16 December 1999. Online <<http://www.alhaq.org>>

<sup>518</sup> *Al Ayyam* on 31 December 1999.

<sup>519</sup> Interview on 20 August 2000.

<sup>520</sup> In Telephone Call with Khrisha on 3 September 2000.

However, it seems unlikely that those accused of the attack were brought before justice since Khrisha statement was made after around nine months of the attack, and therefore, if this long period passed without bringing those accused of the attack before justice, when one should expect this will happen? Even if those accused of the attack were brought before justice, are they the only party which is to be held responsible on the attack or there are other parties like their commanders, and head of Intelligence in Jericho? Whether those parties involved in the attack were brought before justice or not, the occurrence of the attack, which was the second in kind, displayed further PLC's failure to protect its members and to preserve their immunity. PLC's failure to do so culminates a long series of failures accumulated over the first four years of its inception.

Over these years, PLC failed to enact a constitution that governs the relation of the ruling authorities from one side, and the relation of these authorities with people from the other side. PLC's failure in this regards went in parallel to its failure to bound PA with the legal procedure of handling the annual budgets, and implementing hundreds of its resolutions.

Although the PLC enjoyed the tools that would enable it to hold PA accountable, the PLC, as it seems, lacked the will to use these tools. Mawaia El Masri pointed out that "the PLC did not use the motion of non-confidence in any session of the first four terms (1996-2000)...a matter which confirms its lack of will to do so".<sup>521</sup>

PLC's approval of Arafat's Cabinet of 1998 might be the most telling illustration of PLC's crisis in this respect. In spite of the fact that the Cabinet included the ministers who were charged with corruption by the 1997 PLC committee to investigate corruption, the PLC, surprisingly bowed for PA's wishes and approved the Cabinet. This fact encouraged PA to escalate its violation of the legal norms. The escalation of PA's violation of the legal norms was very evident when PA's security forces attacked PLC members in August 1998.

With the elapse of the interim period, and the failure of PLC to force the PA to hold

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<sup>521</sup> Interview on 20 August 2000.

new legislative and presidential elections, PLC's identity as elected legislature that represents public will have collapsed. Consequently, the PLC had no options but to attach itself to PA as its main source of power, and therefore, to become client for PA. This was clear when PLC threatened to leave immunity on its members who signed the statement of twenty, though the statement was not more than a re-affirmation of what had been stated in the report of the PA-created GMC, and the followed report of PLC committee to investigate corruption.

Accordingly, when Abdel El Jawad Saleh was attacked by the General Intelligence Forces in December 1999, PLC's chance to hold those who were accused of the attack accountable was very weak. Because of this and other things, the PLC member Ra'fat El Najar did not hesitate to declare in April 2000 that "the situation in the Palestine Legislative Council is even worse than anyone could imagine".<sup>522</sup>

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<sup>522</sup> *Neue Zürcher Zeitung* on 22/23 April 2000, op.cit.,

## Chapter V: The Oslo Autonomy

### A Functional Perspective

“The necessities of governmental operation require large-scale organization of a bureaucratic type, with definite internal hierarchical arrangements, well-developed functional specialization, and qualification standards for membership in the bureaucracy.”<sup>523</sup>

One of the most prominent features of the modern world is the participation of an extensive full-time body of officials in the day-to-day conduct of public affairs. This body is called the bureaucracy. Bureaucracy is defined as an organization that has the following characteristics: “(1) hierarchy, (2) differentiation or specialization, (3) qualification or competence”. Other characteristics such as the division of labor, a civil service system (including a clear set of grades for personnel throughout the civil service based on their qualifications), and impersonal nature of interpersonal relationships might be added to this list. Nevertheless, hierarchy, differentiation, and competence, remain the central characteristics of any bureaucratic organization.<sup>524</sup>

Although this paradigm of the characteristics of a bureaucratic organization is universally accepted, thus making it possible for us to distinguish bureaucratic organizations from other organizations, it focuses only on the structural elements of the bureaucracy. Therefore, it makes it difficult for us to distinguish one bureaucracy from another, since most of the world’s countries (developed and developing countries alike) enjoy systems of bureaucratic organization with the above mentioned structural traits. To overcome such a dilemma, we must think about what the bureaucratic organization should do. Or to put it differently, we must think about the function of bureaucratic organizations. Fred W. Riggs (1966) made an early attempt toward this end when he defined the bureaucracy as “[a] concrete organization, composed of hierarchically related roles, serving formally as an agent for a larger social entity or system.”<sup>525</sup>

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<sup>523</sup> Heady, op.cit., P.80.

<sup>524</sup> See Ibid., Pp.74-79, and see also B.Guy Peters. *The Future of Governing: Four Emerging Models*. USA: University Press of Kansas, 1996, Pp.3-13.

<sup>525</sup> Fred W. Riggs. “Administrative Development: An Elusive Concept”. In John D. Montgomery & William J. Siffi (eds.), *Approaches to Development: Politics, Administration and Change*. New York, London, Sydney and Toronto: McGraw Hill, 1966, P.227.

According to Riggs, what matters is the extent to which a bureaucracy engages in administrative functions, as a bureaucracy may serve other functions alongside the administrative ones, such as social, economic, and political functions. Bureaucracy engages in an administrative function insofar as its role is the application of rules. Alternatively, its role may be confined to the process of deciding the actions, steps, and responsibilities necessary to implement the goals and policies set by politicians or the authoritative body. Toward this end, bureaucracy should release itself from any values (including any partisan allegiances) other than loyalty to the politicians or the authoritative body who/which are supposed to set goals and espouse policies for the welfare of society. Only this makes the bureaucracy eligible to work for the welfare of society.<sup>526</sup>

The bureaucracy, thereby, is considered to be the agent that translates the decisions made by the authoritative body into concrete manifestations on the ground - that is, to deliver goods and services to citizens without discrimination. This is what the bureaucracy's function should be, and this is what Peters meant when he defined the bureaucracy in functional terms as "...the process through which general social rules are converted into specific decisions for individual cases".<sup>527</sup>

The amount of services, and the manner in which these services are supplied to citizens, shape, to a large extent, citizens' attitudes towards their political system. Often the output of any political system has two components; quantitative (objective) and qualitative (subjective). The quantitative component refers to "...what the political system actually provides the citizens in the way of gratifications and deprivations", and the qualitative component refers to "...the style in which those gratifications and deprivations are delivered to the individual..."<sup>528</sup> In this regard, bureaucracy emerges as the most influential variable in determining the subjective components of the political system, since it is the body which decides the way in which these services are supplied to citizens. This is so to the extent that a bureaucracy shows competence, effectiveness, and consideration for citizens' interests

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<sup>526</sup> Ibid., pp.227-230.

<sup>527</sup> B. Guy Peters. *The Politics of Bureaucracy: A Comparative Perspective*. New York & London: Longman, 1978, P.2.

<sup>528</sup> Ibid. Pp.11-12.

in supplying these services, and to the extent that citizens show respect for the political system.

To do so, bureaucracy, as mentioned above, should release itself from any considerations other than loyalty to politicians/authoritative body. This is a very important condition, if the bureaucracy is to offer and deliver services to citizens in the best quantitative and qualitative way. In other words, a bureaucracy works best when confined to an administrative role, to the extent that this determines its ability to serve society. Only this would secure a good evaluation of a state's public policy.

But the ability of bureaucracy to function properly varies from one country to another. Its ability to release itself from any values or considerations other than loyalty to the authoritative body or politicians, and thus to perform the function of rule application, varies from one country to another.<sup>529</sup> In developing countries, the role of the bureaucracy is highly overemphasized and overlaps with the rule application to include political roles.

Most of the leaders of these countries found themselves confronted with huge challenges in the post-independence era. The most important of these challenges is how to achieve the task of nation-building whilst simultaneously promoting the economic and social progress of the local population. Given the widely diffused kinship networks in most of these countries, these leaders encountered huge difficulties in integrating and mobilizing their people within a territorial state-based moral framework (as the task of nation-building necessitates), and hence, have been failing to achieve the task of nation-building.

The failure of these leaders to achieve the task of nation-building has been compounded by their failure to promote the social and economic progress of their people. Often, social and economic progress requires strong political institutions (e.g., political parties, interest groups, legislative bodies) that are able to articulate peoples'

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<sup>529</sup> Metin Heper. "The State and Public Bureaucracies: A Comparative and Historical Perspective." In Metin Heper (ed.). *The State and Public Bureaucracies: A Comparative Perspective*. New York, Westport, Connecticut, & London: Greenwood Press, 1987, Pp.10-13.

economic and social demands to policy-makers. Meanwhile, it requires a minimum state intervention in economy.<sup>530</sup>

In the developing countries, the above-mentioned conditions were not fulfilled. Most of these countries experienced single-party rule, which suggests a strong executive authority and weak political parties, interest groups, and legislative body. In the meanwhile, most of these countries adopted an import-substitution macroeconomic policy which assumes state-led economic central planning. This fact inhibited the development of market economy, and left the public sector of these countries as the chief source of employment. The result was an overstaffed and politically oriented bureaucracy.<sup>531</sup> As Joseph Lapalombara critically remarked about the situation of these countries; “a significant problem in many of the ex-colonial areas is not that bureaucracy is too weak, but that, as a result of the colonial experience itself, the bureaucracy in the post-independence period is the only sector of the political system that is reasonably coherent and able to exercise leadership and power.”<sup>532</sup>

The situation in developing countries is one of imbalance of power between the bureaucracy and the traditional political institutions. This imbalance negatively affects the political development of these countries. Therefore, reducing the bureaucracy’s power (by rationalizing it) seems to be very important for achieving political development (political development means the development of the capabilities of the political system to cope with challenges).

The reduction in the bureaucracy’s power must take place whilst simultaneously strengthening the traditional political institutions such as political parties, interest groups and legislative bodies. This allows these institutions to be able to monitor and scrutinize the actions of the bureaucracy, and hence, to achieve the intended political balance, and thereby, the political development which is necessary for meeting the challenges of nation-building, and economic and social progress.

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<sup>530</sup> Francis Fukuyama. *The End of History and the Last Man*. New York: Avon Books, 1992, Pp.98-108.

<sup>531</sup> Heady, op.cit., Pp.290-301.

<sup>532</sup> Joseph Lapalombara. *Bureaucracy and Political Development*. Princeton: Princeton University Press, 1965, P.23

### ***The Rise of the Palestinian Bureaucracy: Challenges and Parameters***

A major aspect of the Palestinian bureaucracy of the West Bank and Gaza Strip is its youth. Since 1994, and by virtue of Oslo agreements/accords, the West Bank and Gaza Strip had enjoyed their own bureaucratic system. Previously, Palestinians from the West Bank and Gaza Strip were denied the right to such a system. The foreign rulers which governed the territories (Ottomans, British, Egyptians, Jordanians, and finally Israelis) relinquished the responsibilities of supplying the main services and utilities to the Palestinians of West Bank and Gaza Strip. While the Ottomans assumed such responsibility up to 1919, the British assumed it from 1919 up to 1948 when the state of Israel was established over more than half of historic Palestine.

The West Bank (including East Jerusalem) and the Gaza Strip, the only remaining Arab territories after 1948, were placed at that time under Jordanian civil rule and Egyptian Military administration, respectively. Both the Jordanians and the Egyptians undertook, at that time, to supply the Palestinians of West Bank and Gaza Strip with the basic utilities and services. In the meantime, UNRWA was established in response to the refugee crisis in December 1949. It joined the Jordanians and the Egyptians in supplying the main utilities and services to Palestinians. This state of affairs lasted up to 1967, when Israel took control over the West Bank and Gaza Strip. With the start of the Israeli occupation of the West Bank and the Gaza Strip, the Jordanian and Egyptian role of supplying Palestinians with these services disappeared, and the responsibility lay mainly with Israel and UNRWA.

The signing of the Oslo agreements, and the subsequent establishment of the PA in the West Bank and Gaza Strip in 1994, formally put an end to the Israeli responsibility of supplying Palestinians with basic utilities and services, and transferred this responsibility to the PA. The year of 1994, therefore, witnessed, for the first time in Palestinian history, the rise of a Palestinian bureaucratic system over the Palestinian territories. The first signs of this system started to appear on the scene with the founding of Palestinian Economic Council for Development and Reconstruction (hereinafter PEC DAR) in late 1993.



The idea of establishing an institute like PECNDAR was stimulated by the Oslo peace process, which promised economic prosperity for the Palestinians of the West Bank and Gaza Strip. Towards this end, approximately 50 delegations representing 50 states and international organizations held their first conference in support of Middle East peace in Washington, in October 1993. In that conference, which was the first donor conference to support Palestinians in their efforts to build their state, the 50 states and international organizations committed US \$2.3 billion to assist Palestinians in their development and reconstruction efforts during the period of 1993-1998. By December 1998, some US\$ 2.1 billion had been received by the Palestinians.<sup>533</sup>

Thus the rationale for establishing PECNDAR was so that it would lead to reconstruction, by having strategic control of the process, and also so that it could coordinate and distribute the resources donated to Palestinians. Arafat's decree of the 31 October 1993 relating to the establishment of PECNDAR had specified this remit for PECNDAR when it asserted that the main job of PECNDAR was to "...set priorities for economic and social development and reconstruction and, specifically, priorities for development projects and the direction of their implementation on the basis of transparency, clarity and competence".<sup>534</sup> On 20<sup>th</sup> November 1998, Khalid Nijim, Director-General of projects department of PECNDAR revealed that PECNDAR had completed 1745 projects since its establishment. These projects were related to infrastructure development, increasing economic growth, encouraging investments, health, education, social welfare, and so forth.<sup>535</sup>

The majority of these projects were completed in coordination with the concerned ministries, which began to appear after 1994. By virtue of the Oslo Accords the PA was empowered to handle civil issues. Article VI of the Declaration of Principles (DOP) signed on 13 September 1993 promised the transfer of all the civil powers of the former Israeli military government and its civil administration to the PA. The same article promised the transfer of Israeli powers in five civil spheres to the PA (education and culture, health, social welfare, direct taxation, and tourism) soon after the entry of the PA into the Gaza Strip and Jericho. Article IV (Para, 2) of the Cairo

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<sup>533</sup> *Financial Times* on 1 December, 1998.

<sup>534</sup> Arafat Decree with relation to the establishment of PECNDAR. 31 October 1993.

<sup>535</sup> See *Al-Quds* on 21 November 1998.

Accord, signed on 4 May 1994, gave the PA the right to “administer the departments transferred to it”, and to establish other departments and other administrative units “as necessary for the fulfillment of its responsibilities...” in the above mentioned civil spheres and any other similar ones.

The responsibilities of the PA in the civil spheres included; policy formulation, supervision of policy implementation, employment of staff, establishing departments, authorities and institutions, conclusion of contracts, keeping and administering registers and a record of the population, issuing certificates, licenses and documents (Article VI, Para 1, c-d of Cairo accord). Annex II of the Cairo Accord (Protocol Concerning Civil Affairs) promised the extension of the PA’s responsibilities over a further thirty-three civil spheres alongside the above-mentioned five spheres.

The new civil spheres included; interior affairs, fisheries, surveying, statistics, labor, housing, assessment, parks, religious affairs, employee pensions, commerce and industry, transportation, agriculture, employment, land registration, nature reserves, electricity, public works, postal services, population registry and documentation, government and absentee land and other immovable, telecommunications, archaeology, water and sewage, planning and zoning, indirect taxation, environment protection, gas and petroleum, insurance, and treasury.

Though the Oslo accords, in particular article VI of the DOP, promised the transfer of the Israeli civil powers in education and culture, health, social welfare, direct taxation, and tourism soon after the arrival of PA to Gaza Strip and Jericho (in May 1994 the PA arrived Gaza and Jericho), the PA was required to go through a round of negotiations with the Israeli government to put this article into effect. On 29 August 1994, the PA concluded with the Israeli government the “Agreement on the Preparatory Transfer of Powers and Responsibilities”.<sup>536</sup> The agreement put article VI of the DOP into effect, and therefore, enabled the PA, since that time, to take over education and culture, health, social welfare, direct taxation, and tourism. Over time the PA took over the thirty-three civil spheres specified in Annex II of the Cairo Accord. With this control over most of the Israeli civil authority, the PA was asked to

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<sup>536</sup> The full Text of the agreement can be found in <<http://www.usembassy-israel.org.il/publish/peace/empow.htm>>

set up the ministries and public institutions that were necessary for the fulfillment of its responsibilities in such spheres. In setting up these ministries and institutions, the PA encountered a complicated institutional context at the economic, social, and legal level.

The PA had in fact to deal with the negative economic repercussions of the economic policy which was pursued by Israel over the 27 years of its occupation of the West Bank and the Gaza Strip. In seeking to subordinate the economy of the West Bank and Gaza Strip to her priorities and needs, Israel discouraged the development of large-scale industrialization. It dealt with the WBGS as a market for its products, and as a source of cheap labor. Due to this policy, the economy of the WBGS became very much connected to the Israeli economy, and the livelihood of a large segment of the Palestinian society became dependent on employment inside Israel. With the policy of closure pursued since 1991, the economy of the WBGS was in serious stagnation. Due to this policy, the WBGS labor force, employed inside Israel before the closure, either lost their work, or became engaged in more casual labor on a daily/weekly basis, depending on whether they were granted a permit, and if so the duration of the permit (see Chapter III, pp. 118-119).

In dealing with the problem of Palestinian workers who lost employment inside Israel, the PA had to bear in mind the weak and fragmented Palestinian private sector. This weakness and fragmentation was the direct result of the economic policies pursued by Israel over the 27 years of its occupation of these territories. The Palestinian private sector, therefore, was unprepared to provide answers to economic questions like the problem of unemployment. This meant that the public sector was the sole agent upon which this responsibility fell.

Moreover, the public sector was asked to provide the answer to the question of how to absorb exiled Palestinians who had been allowed to return to their homes in the WBGS after Oslo. Some of these Palestinians were born in the WBGS, but were deported from the WBGS due to their active participation in the resistance against the occupation. Others fled Palestine after the 1948 war (outsiders) and contributed to the resistance during their own period of exile. In June 1994, the number of these

Palestinians was estimated at 500. Most of them were affiliated with Fatah.<sup>537</sup> Their long years of exile and contribution to resistance stamped them with revolutionary ethics rather than those of statespersons. In other words, these Palestinians- who felt after Oslo that they were entitled to job security and status after years of hardship and sacrifice- enjoyed much expertise with regard to how to lead a resistance campaign but very little expertise with regard to how to build state institutions.

Alongside them were those Palestinians who fled Palestine, after the 1948 war or the 1967 war, but were not affiliated with the various PLO factions. Some of these Palestinians, who were denied the right to return to the WBGS in the pre-Oslo era, had become involved in the civil life of the countries they fled to, and practiced various professions like medicine, engineering, teaching, and so forth. They had started to return to the WBGS since 1994 reaching a total, in 1997, of over 165,000 (6% of the WBGS population at that time).<sup>538</sup> Parallel to these Palestinians were thousands of local university/graduate-degree holders seeking employment. Their number had shifted steadily since PA arrival to WBGS to reach to 147,372 in 1997.<sup>539</sup>

The PA was not only asked to absorb these Palestinians within its civil apparatus, but also to absorb thousands of Palestinian detainees released from Israeli jails in the post-Oslo era. The first transfer of these detainees was provided by Article XX of the Cairo Accord, and was estimated at 5,000. Most of these detainees- who had broken with their education due to their active participation in resistance against the occupation- were affiliated with Fatah, and enjoyed little expertise in respect of how to build state institutions. In this sense, they were similar to the PLO cadres and members who returned to the WBGS after Oslo.

Parallel to the challenge of how to absorb those unemployed Palestinians, or those who had returned to the WBGS or had been released from Israeli jails- into the various civil or security apparatus- the PA was asked to meet their demands for basic services like health care, education, social needs, infrastructure, and so forth. More

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<sup>537</sup> *Jerusalem Post* on 19 June, 1994.

<sup>538</sup> Figures Palestinian Central Bureau of Statistics (PCBS). *Statistical Abstract of Palestine*. . Ramallah/Palestine, November, 2003, No.“4”, P.196.

<sup>539</sup> Nazieh Arman & Wafiq-Al-Natour. *The Eductaional System and Labor Market Demand*. Ramllah/Palestine: PCBC, In-depth Analysis Study Series (01), May 2002, P.47

important was meeting the increasing demands for these services posed by the high natural growth rate of the local population. This rate, estimated at 5 % for the Gaza Strip, and 4.1% for the West Bank in 1991, was to add some 1.2 millions Palestinians to the 2 million already living in the WBGS (including East Jerusalem) by 2000, and a further 720,000 Palestinians by 2004.<sup>540</sup>

To meet the local and incoming population's demand for services, the PA had to encounter the bitter empirical realities of the Oslo agreements. This included the Israeli control over the key resources (e.g. water), external security, and approximately 40% of the Gaza Strip and 72% of the West Bank (this includes the borders, the Jewish settlements in the West Bank and Gaza Strip, the military posts, and the bypass roads surrounding these settlements).

Moreover, the PA had to encounter the bitter economic realities of the Oslo Accords, including the restrictions imposed on its economic freedom by the Protocol on Economic Relations signed on 29 of April 1994. Among these restrictions was the denial of the right to issue an independent Palestinian currency, and the imposition of the Israeli currency (New Israeli Shekel, NIS) as official tender in the territories. This denied the PA the capacity to design its own monetary policy, particularly with respect to establishing interest rates and currency values. This meant that the Palestinian economy was continually victimized by, and at the mercy of, Israeli currency fluctuations (see chapter III, P. 120).

The restrictions of the Protocol on Economic Relations were not only confined to PA monetary policy, but extended to include the PA's sources of income. Though the protocol empowered the PA to impose direct tax and indirect tax (a fact that was to secure to it some US \$360-420 million annually) as well as right to receive annually some US \$180 million of the income taxes deducted by Israel from Palestinian laborers employed inside Israeli territories, the PA's enjoyment of these sums, in particular the US\$ 180 million, remained subject to Israel's good will, as well as the

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<sup>540</sup> Figures from PCBS. *Statistical Abstract*, op.cit., P.189, & the World Bank. *Developing the Occupied Territories: An Investment in Peace*. Washington, D.C.: The World Bank, Human Resources and Social Policy, Vol. 6, September 1993, P. xi,

political winds of the region, and in particular to any advances in the peace process (see chapter III, Pp. 117-118).

The PA, therefore, had to suffer Israeli restrictions on sources of income which were necessary to meet expenditure in civil spheres. To deal with this dilemma, and other bitter empirical realities of the Oslo agreements, the PA had no option but to rely on the international community as a crucial source of aid necessary for building its institutions, and for covering its expenditure in the civil spheres. The PA, in fact, placed significant hope in the international community to develop the Palestinian autonomous areas. In July 1994 Arafat told a news conference in Cairo that “Israeli colonization has destroyed the Palestinian infrastructure. We have to start from scratch in everything and this is the responsibility of the international community.”<sup>541</sup>

In response, the international community showed considerable generosity, and allocated approximately \$525 million to the PA in the first year of its existence (1994). The highest portion of these funds was allocated to building the PA security forces (10.5%), and following this was the education sector (10.2%); institutional building (6%) and the health sector (5%). The remaining funds were allocated among sectors like agriculture, transportation, human rights and democratic development, women, private sector development and others.<sup>542</sup>

This funding was the green light that enabled the PA to start forming its ministries and public institutions, and to assume the responsibility of supplying Palestinians with services like health, education, social services and so forth. Hence, seventeen ministries were working on the ground by the end of 1994. These ministries, which still operate today, were: Ministry of Health, Ministry of Education, Ministry of Social Affairs, Ministry of Culture and Arts, Ministry of Labor, Ministry of Economics and Trade, Ministry of Finance, Ministry of Planning and International Cooperation, Ministry of Communication, Ministry of Youth and Sport, Ministry of Housing, Ministry of Justice, Ministry of Local Government, Ministry of Tourism, Ministry of Islamic Waqf, Ministry of Transportation, and Ministry of the Interior.<sup>543</sup>

The difficulties that these ministries had to overcome in order to properly function were not only confined to the above-mentioned parameters (Palestinian

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<sup>541</sup> *Jerusalem Post* on July 3, 1994.

<sup>542</sup> *MOPIC's 1997 Third Quarterly Monitoring Report of Donor Assistance*. Gaza: MOPIC, October 1997, (unpublished report).

<sup>543</sup> Rex Brynen. "The Dynamics of Palestinian Elite Formation". In *Journal of Palestine Studies*. Vol. XXIV, no.3 (Spring 1995), P.39.

unemployment, and the limited sources of the PA's income) but extended to include these ministries' lack of any legal system organizing their operation as the following section discusses.

### **The Palestinian Bureaucracy: Legal Dimension**

It is commonly accepted that any bureaucratic system should have legal system and rules organizing its staff employment; including the methods of recruitment, compensation (pay), promotion, retirement, dismissal, clear set of grades for personnel throughout the civil service based on their qualifications. This legal system is commonly known as the civil service law. The Palestinian civil law, which was supposed to fulfill this goal, was ratified by Arafat on 28 May 1998,<sup>544</sup> and consisting of 108 articles. The law sets down the mechanisms of building a professional bureaucracy. Article 4 (Para. 2-4), for instance, asked all the ministries to develop an annual organizational chart specifying the functions of each department and to indicate job specifications and descriptions of any vacancies the ministry seeks to fill.

Upon the approval of the Cabinet of the organizational chart and the vacancies in a given ministry, the ministry is obliged to coordinate with *Diwan El M'wadfeen* (Personnel Agency)<sup>545</sup> with regard to the procedures of filling the ministry's vacancy (art. 7). Following this, as article (19) provides, the ministry is obliged to announce, in the local daily newspapers, about any vacancy and to notify the Personnel Agency over this. The announcement should include the job description and person specifications of the vacancy.

Then a joint committee representing the given ministry and the Personnel Agency is formed to select qualified applicants (to be determined through an assessment of their academic qualifications, Art. 26). After deciding on the qualified candidates, the committee calls them for a written examination. The best-placed candidates are employed by this committee. If two applicants received the same grade in the examination, the committee should select the one who enjoys more work experience. (Art. 20-22)

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<sup>544</sup> The full text of the law is cited in *Al Waqaea'*, op.cit., 4th year, no. 24, 1/7/1998.

<sup>545</sup> The *Diwan El M'wadfeen* was founded by virtue of the presidential decision no.131 on 11 October 1994. It was empowered with authorities of supervising all the administrative issues of PA civil servants. See *Ibid*, 2ed year, No.2, 8/1/1995.

Those selected by the ministry are asked to assume their responsibilities within one month from the date of informing them of their selection, otherwise their appointment is revoked, and the next candidates in line is invited to fill the post. Usually, the candidate is recruited for one year for a trial-period, before a final decision to employ him is concluded by the relevant ministry. His name is then placed on the PA payroll and the Personnel Agency is informed (Art. 25, 30-31).

Alongside this clear mechanism of recruitment, the law sets down clear mechanisms of promotion. Article (9) of the law classified PA civil servants into five classes; 1) the “Special class” includes ministers; 2) the “First-Class” includes legislators like Deputy-Ministers, Assistant-Deputy Ministers, and Director-Generals; 3) the “Second-Class” includes technocrats like professionals, technicians, associate professionals, accountants, and so forth; 4) the “Third-Class” includes clerks, secretaries, archive staff, and so forth; 5) the “Fourth-Class” includes services staff like janitors, and so on. With the exception of the Special class, each class is divided into a number of levels. Usually, the civil servants are enrolled at each level according to their qualifications.

The movement to a higher level of the same class is conditional on the civil servant’s completion of a specific period of time in the assigned level. This period of time is specified by the law, and varies from one level to another. For example, movement from level six to level five of the second class (whose staff must have a University or graduate degree at minimum) requires five-years working in level six, as a minimum. At the same time, movement from level five to level four of the same class requires at least five-years working in level five; while the movement from level three to level two of the same class requires four-years working in level three, at the minimum.

The same rules are applied to civil servants of the “Third-Class”. In principle they are asked to have a two-year diploma or the General Secondary Education Certificate Examination (*Tawjihi*). If a civil servant of this class continued his studies, and obtained a university degree with relation to his work, this civil servant is moved to the second class, but enrolled at a level with income equal to that one before his promotion. As far as the civil servants of the “Fourth-Class” are concerned, their promotion to the third class is possible upon their completion of *Tawjihi* or obtaining



a two-year diploma. If the promoted civil servant receives the salary of the level to which he was promoted or his pre-promotion salary, depending on which salary is higher (Art. 10-13, & Table “1” annexed in the law).

Though the law sets a clear mechanism for promotion, it denies Palestinians other than those loyal to Arafat the right to have access to top posts in the Palestinian bureaucracy. For example, the civil servants of the special class, and the first class, were said to be appointed directly by the PA president (Art. 16, 17). The law, therefore, was designed to legitimize the *de facto* situation, as it facilitated the dominance of Fatah affiliated deputy and assistant deputy ministers over thirty-three posts out of forty deputy-ministers and assistant-deputy minister posts in 1996.<sup>546</sup>

Nevertheless, the law signified a fundamental administrative development when it considered academic qualifications and work experience as the basis for recruitment and promotion in the Palestinian bureaucracy. In so doing, the law constituted a protest against the system of nepotism which existed in the Palestinian bureaucracy (as we will see later), and called for a reconsideration of the remuneration of thousands of civil servants who were subjected to injustice as result of this system.

To bring the law into force, therefore, the PA was obliged to allocate millions of US dollars to cover the financial implications of the law. To deal with this dilemma, the PA adopted gradual implementation of the law. In November 1998, the PA implemented the law on teachers and “Fourth-Class” civil servants, with a cost of NIS 30 million (7.5 million USD) monthly, according to Mohammad Abu Jarad, deputy-minister of finance.<sup>547</sup> This phase was the first and was going to be followed by another phase covering the civil servants of the third and second class to be implemented in December 1998. In late December 1998, the teachers received their salaries plus the increase provided for by the law. However, the financial bonus given for work experience, and the financial rate given to cover the inflation rate, were deducted from their salaries.<sup>548</sup>

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<sup>546</sup> Hilal (Arabic). *El Nizam El Syasi*, op.cit., P.190.

<sup>547</sup> *Al-Hayat Al-Jadeeda* on 8 December, & *Al-Quds* on 9 December 1998.

<sup>548</sup> *Al-Ayyam* on 28 December 1998.

The same happened with the civil servants of the third and second class. Accordingly, a series of protests were organized by PA civil servants calling for a correct implementation of the law. On 8 January 1999, in response to these protests, Arafat declared that the PA would refrain from implementing the law until the financial implications of it were reconsidered.<sup>549</sup> As a result, the law remained unimplemented until the outbreak of the current *intifada* in September 2000.

### ***The Palestinian Bureaucracy: Institution Building - a Functional Perspective***

As mentioned before, seventeen ministries were set up at the end of 1994. It is beyond the scope of the present research to describe in perfect detail the institutional process of building each of the ministries. In tracing the development of the Palestinian bureaucracy, therefore, I shall focus my attention on three ministries; the Ministry of Health, the Ministry of Education, and the Ministry of Social Affairs. As they are commonly known, health, education, and social services, are the most important services supplied to citizens.

In the Palestinian case, these services were the most ones supplied by the Israeli occupation (1967-1993) and UNRWA. This fact makes it easier to find out what difference the establishment of the PA in the WBGS made as far as the enjoyment of Palestinians of these services is concerned. The three ministries serve as three empirical cases through which my findings and conclusions about the Palestinian bureaucracy will be formulated. To start the discussion, I will start with the ministry of health, as the health sector (as the next section reveals) was the most underdeveloped sector on the eve of the PA's arrival to WBGS.

### **The Palestinian Health Sector: Background**

Historically speaking, the Israeli civil administration, together with UNRWA, and some Palestinian grassroots organizations, was the major provider of health services to WBGS Palestinians. While UNRWA and the Palestinian grassroots organizations provided mainly primary health services (e.g. prenatal health care, immunization, health promotion, treatment of minor illnesses, control of infectious diseases, health care education, among others) the Israeli civil administration provided secondary health care (e.g. internal medicine, maternity, cardiac care, urology, intensive care, general surgery, and so forth) alongside primary health care.

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<sup>549</sup> See *Qanun El Khidmah Al Madinyah: Ba'yn El Nazriyah wa El Tatbieq*. (The Civil Service Law: Between Theory and Practice). Gaza: Palestinian Centre for Human Rights (PCHR), Series Studies (17), September 1999, pp.16-18.

On the eve of the PA's arrival to WBGS, UNRWA was operating a total of 42 primary health care centers (9 in the Gaza Strip, and 33 in the West Bank) alongside some dental clinics, feeding centers, and a 34 bed hospital (located in West Bank camp of Qalandia). Around 950,000 of the WBGS' registered refugees benefited from UNRWA services (offered free of charge) in 1992.<sup>550</sup> Meanwhile Palestinian grassroots organizations were operating some 132 clinics in 118 communities, which served nearly half of the population in 1992, offering their services free of charge or with minimum charge.<sup>551</sup>

Around the same period, the Israeli civil administration was operating a network of primary health care centers consisting of up to 200 centers (171 in the West Bank, and 29 in the Gaza Strip).<sup>552</sup> Parallel to these centers, the civil administration operated 13 hospitals (five in the Gaza Strip, and eight in the West Bank) with a total of 1,596 beds for a secondary health care. The number of the beds operated by the civil administration formed up to 60% of all hospital beds in the West Bank, and 90% of all beds in the Gaza Strip.<sup>553</sup> The governmental (civil administration) sector, therefore, was the main sector offering secondary health care.

However, and in a quantitative sense, this sector was characterized by poor performance. The number of hospitals, and beds available (13 hospitals with 1,596 beds) was very small in relation to the demand posed by 2 million Palestinians living in the territories in 1991. In that year, only one hospital bed was made available for every 1253 Palestinians. Even so, not every one of the 1253 Palestinian was eligible to enjoy hospital services.

Only those who joined the government health insurance scheme were eligible for these services. This included Palestinians employed in the Israeli civil administration, Palestinians employed in local government institutions, and Palestinian laborers officially working inside Israel. These Palestinians (alongside their family members)

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<sup>550</sup> the World Bank. *Developing the Occupied Territories*, op.cit., Pp. xiv-xiii

<sup>551</sup> Robinson, op.cit., P. 49.

<sup>552</sup> See Theodore H.Tulchinsky. "Judea-Samaria and Gaza: Twenty Five Years of Changing Health, 1967-1992". In Manfred Waserman & Samuel S.Kottek (eds.). *Health and Disease in the Holy Land: Studies in the History and Sociology of Medicine from Ancient Times to the Present*. Lewiston, Queenston, & Lampeter: the Edwin Mellen Press, 1996, Pp.417-418.

<sup>553</sup> Ibid, Pp. 428-429.

were obliged to join the government health insurance scheme once they started their job.<sup>554</sup> According to World Bank estimates, the number of these families did not exceed 75,800 families in 1992.<sup>555</sup> Bearing in mind that the average size of a Palestinian family is estimated at 6.4 according to the most up-to-date statistics,<sup>556</sup> it is possible to conclude that some 485,000 Palestinians were enrolled in the Israeli health insurance scheme in 1992.

Providing the fact that the population-as mentioned elsewhere- was estimated at 2 million in 1991, and the natural growth rate is estimated at 5 % for the Gaza Strip, and 4.1% for the West Bank in the same year, one can conclude that the population of WBGS is estimated at 2.13 Million in 1992. This implies that the rate of the Palestinians enrolled in the Israeli health insurance scheme is nearly 22% of the total population, in 1992. Though the health insurance scheme, introduced in 1978, was optional for Palestinians other than the employees of the civil administration and local government institutions, and those officially working inside Israel - the subscription fees made it difficult for these Palestinians to join the Israeli health insurance scheme.

Sara Roy estimates the fees at nearly NIS 10 per month for a single person, with an additional NIS 2.5 for each family member in April 1985. Within nine months (April 1985-January 1986), these fees, according to Roy, were doubled to NIS 22 for a single person and an additional NIS 5 for each family member.<sup>557</sup> The following years (1986-1993) witnessed a further increase. In the early 1990s, Palestinians were asked to pay a sum of NIS 111 as monthly insurance subscription fees.<sup>558</sup> This sum, which is equivalent to US\$ 35 (at that time each NIS 3 were equivalent to US\$1) was relatively high if it is taken into account that the average income of the Palestinian family was estimated at some US \$1,882 annually, or US \$157 monthly.<sup>559</sup>

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<sup>554</sup> Interview with Mohammad Abu Hashiesh, Director-General of Health Insurance Directorate. Gaza: Ministry of Health, 19 September 2004.

<sup>555</sup> The World Bank. *Developing the Occupied Territories*, op.cit., P. xii.

<sup>556</sup> PCBS. *Statistical Abstract*, op.cit., P.202.

<sup>557</sup> Roy. *The Gaza Strip*, op.cit., P.106.

<sup>558</sup> Interview with Mohammad Abu Hashiesh, Director-General of Health Insurance Directorate. Gaza: Ministry of Health, 19 September 2004.

<sup>559</sup> Figures from *Palestine-Israel Journal*. No. I (Winter 1994), P. 106.

The vast majority of Palestinians (78% of the population), therefore, were without health insurance. These Palestinians were asked to pay for their own medical treatment. Roy estimates the daily hospitalization cost in the governmental hospitals at NIS 207 in 1985. This covers the services of in-patient (NIS 130.4), delivery (NIS 65.20), and consultation (NIS 12.26) services.<sup>560</sup> Bearing in mind that the health insurance subscription fees had increased by nearly 405% (from NIS 22 in 1986 to NIS 111 in early 1990s), it is possible to conclude that the cost of the daily hospitalization had also increased by approximately the same rate. This suggests approximately NIS 837 (approximately US\$ 292) as a daily hospitalization cost in early 1990s.

Even with this high cost of medical treatment Palestinians were denied the right to proper and efficient hospital services. The main reason for this was the limited funds Israel made available to health in WBGS. In 1975, for instance, Israel's health budget for the entire West Bank was equivalent to only 60% of the typical budget for one 260-bed hospital in Israel.<sup>561</sup> Israel's failure to allocate sufficient funds for governmental hospitals blocked the development of these hospitals' facilities. For example, the five governmental hospitals of the Gaza Strip (El Shifa, Radwan, Naser, Breij, and Radwan Eye) failed to secure more than one bed for every 548 Gazans in 1984. Also, they failed to secure more than one doctor for every 2200 Gazans, and one nurse for every 900 Gazans in the same year.<sup>562</sup>

Alongside the shortage in the human resources necessary to operate these hospitals, there was a serious shortage in the technical infrastructure and equipment necessary for efficient delivery of health services in relation to hematology, cardiac care, dialysis, among others. El Shifa hospital in Gaza, for instance, lacked equipment and facilities such as X-ray machines, dialysis units, electro-cardiogram units, cardiac monitor, and so forth.<sup>563</sup> This shortage in material and human resources left hospitals in the WBGS unable to supply health services in an efficient and effective manner, and so shifted the infant mortality rate to 70 per 1,000 live births. By comparison, the

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<sup>560</sup> Roy, *The Gaza Strip*, op.cit., P.107.

<sup>561</sup> Figures from the Union of Palestinian Medical Relief Committees' webpage  
<<http://www.upmrc.org/content/health/content/health/main.html>>

<sup>562</sup> Roy, *The Gaza Strip*, op.cit., P.108.

<sup>563</sup> Ibid., Pp. 108-109

rate was 14 per 1,000 in Israel, 55 per 1,000 in Jordan, and 60 per 1,000 in Syria in the same year.<sup>564</sup>

The health conditions of Palestinians seemed unlikely to improve in the following years (1987-1993). These years were the ones which witnessed the first *intifada*. The *intifada*, was the spontaneous uprising against the occupation, encompassing all segments of the population; young and old, male and female, rich and poor, intellectual and uneducated, religious and secular, villagers and urban dwellers. It expressed Palestinians' protest against their humiliating conditions under the occupation, and their desire for a complete disengagement from its control (see chapter II, Pp. 102-108).

In response to the *intifada*, Israel adopted extremely harsh political, security, and social measures against the Palestinians. These measures included the disproportionate use of force, collective punishments such as curfews, sieges, blocking sick and wounded patients from having access to health care, raiding health facilities on the pretext of searching for *intifada* activists, prohibiting doctors' movement during the curfews unless they have a permit, and more importantly, forcing doctors to hand over the names of all the injured admitted to the hospitals. This was a particularly worrying measure for the injured of the *intifada*, and left the majority of them reluctant to seek medical care in the governmental hospitals because of the high possibility of arrest by the army, and fearing that the injury would serve as evidence of "guilt".

Owing to these deteriorating security conditions, Israel did very little to improve the health situation of the territories. In the period of 1987-1990, there were no notable changes in the hospital facilities. In fact, this period witnessed further deterioration in the health situation, in the Gaza Strip in particular. In 1990, for instance, only one nurse was made available for each 1052 Gazans (9.5 per 10,000), as against one nurse for every 900 Gazans in 1984. Furthermore, only one physician was made available for each 2083 Gazans (4.8 per 10,000).<sup>565</sup> Though the conditions of West Bank

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<sup>564</sup> Figures from the Union of Palestinian Medical Relief Committees' webpage  
<<http://www.upmrc.org/content/health/content/health/main.html>>

<sup>565</sup> Tulchinsky, op.cit., Pp.414, 434.

hospitals seemed relatively better than the ones of their Gaza Strip counterparts, these hospitals continued to suffer shortages in some resources, in particular in nursing staff, as only one nurse was made available for every 1250 West Bankers in the same year.<sup>566</sup>

After the closure policy (adopted in 1991 onward), many Palestinians (including those enrolled in the Israeli health insurance scheme) were denied the right to medical treatment in Israel. These Palestinians were obliged to have permits. To obtain such a permit they were subjected to strict security scrutiny, and in most cases, the permit was denied. Providing for the very large difference between the range and quality of health services available in WBGS and in Israel, the denial of the permit meant risking the life of these Palestinians, as this would leave them at the mercy of local hospitals which lacked the appropriate material and qualified human resources necessary to deal with serious diseases like cardiac, cancer, and cardiovascular problems. In 1994 or so (around the same period of the PA's arrival to the territories), at least 20% of the crude death rate in WBGS resulted from cardiac diseases, and another 11% and 9% resulted from cardiovascular and cancer diseases, respectively.<sup>567</sup>

The PA, therefore, inherited a regressive health sector from Israel, and had to deal with huge health problems resulting from the health policy of Israel towards the WBGS over the 27 years of the occupation of these territories. It is possible to sum up the main features of the Palestinian health sector on the eve of the PA's arrival to the territories with the following:

- Understaffed, in terms of qualified human and appropriate material resources.
- Unable to cover the majority of Palestinians with the health insurance services, and thereby,
- Unable to supply health services for the majority of Palestinians.

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<sup>566</sup> Ibid.

<sup>567</sup> See Ministry of Health (MoH). *Health Status in Palestine: Ministry of Health Annual Report*. Gaza: Ministry of Health, July 2004, P. xxix.

## **The Palestinian Ministry of Health (MoH): Does it make a Difference?**

One can trace the history of the institutional building of the Palestinian ministry of health to 1992, when the Israeli-Palestinian peace talks in Washington were underway (for these talks see chapter II, Pp. 105-106). These talks, and before it the Madrid peace conference of 1991, gave rise to strong hopes among the concerned parties for a possible and close settlement of the Israeli-Palestinian conflict. Inspired by these hopes, Palestinians started to lay down the nucleus of their state-institutions, among which was the ministry of health.

In the same year that the Washington talks were underway, the PLO founded the Palestinian Health Council (PHC) as an institutional framework gathering all Palestinian health expertise (inside the territories and in the exile alike). Upon its establishment, the PHC gathered between 500-600 Palestinian experts in various health fields such as medicine, nursing, health promotion, pharmacology, and so forth.<sup>568</sup> The aim was to create a plan for developing the health care situation of the WBGS. Towards this end, the PHC convened several workshops and conferences, and looked to other Arab health experts, Egyptian ones in particular. In this connection, Fathi Arafat, President Arafat's brother, and the one who directed the PHC, took the leading role in building channels of communication with Arab expertise, and health ministries and organizations.

In so doing, Fathi Arafat benefited from the various networks he built with these ministries and other health Arab health organizations over four decades of working as Director of the Palestinian Red Crescent Society (PRCS). As we have seen in chapter II (P. 99), the PRCS assumed the responsibilities of supplying the Palestinian diaspora with health services. By 1979, it had been operating no less than 30 hospitals and 100 clinics in Lebanon, Jordan, Egypt, and other Arab countries.<sup>569</sup> These hospitals and clinics employed thousands of doctors, nurses, paramedics, administrators, and so forth.

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<sup>568</sup> Interview with Abdel El Rahman El Barqawi. Director-General of Ministry of Health, Gaza: Ministry of Health, 28 October 2004.

<sup>569</sup> See *Social, Economic and Political Institutions in the West Bank and the Gaza Strip*. New York: United Nations, 1982, P.22.



Parallel to the diaspora health personnel were the local health personnel, or those whom Palestinians employed in Israel's civil administration. Article II (B, 6) of Annex II (Protocol Concerning Civil Affairs) of the Cairo Accord committed the PA to retain all the Palestinian personnel of the Israeli civil administration. Unfortunately, the most current data with relation to the number of these Palestinians are not available. However, Meir Shamgar (1982), and Sara Roy (1986), present us with some helpful data in this respect.

According to Shamgar, there were 2,799 Palestinians (1,403 from West Bank, and 1,396 from Gaza Strip) employed in the health sector of Israel's civil administration in 1980.<sup>570</sup> The number of Palestinians from the Gaza Strip employed in the health sector was, therefore, similar to the number of their West Bank counterparts. Sara Roy estimates the number of Palestinians from the Gaza Strip in the civil administration health sector at 1,475 (232 physicians, 566 nurses, 165 paramedics, and 512 administrators) in 1984.<sup>571</sup> This implies an increase rate of nearly 5.5% within 4 years (from 1,396 personnel in 1980 to 1,475 in 1984).

Bearing in mind that the number of West Bank Palestinians in the civil administration's health sector was more or less similar to the one of Gaza Strip counterparts, it is possible to conclude that the number of West Bank Palestinians in the civil administration's health sector had shifted by the same rate (5.5% or 79 Palestinians) during the same period (1980-1984). Thus, the number of West Bank Palestinians employed in the civil administration's health sector could be estimated at 1480 in 1984. Therefore, the number of Palestinians (from both West Bank and Gaza Strip) employed by the civil administration could be estimated at 2,955 in 1984.

In the period of 1985-1987, it seems unlikely that there were any notable changes in the number of Palestinians employed in the civil administration's health sector, given the small increase rate change in the number during the period of 1980-1984. The same analysis is applied for the period of 1987-1993. As mentioned elsewhere, this period was the *intifada* period in which Israel did very little to improve the health

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<sup>570</sup> Shamgar (ed.). op.cit., P.444.

<sup>571</sup> Roy. *The Gaza Strip*, op.cit., P.108.

conditions (in terms of improving and developing health personnel and equipment) in the territories.

Therefore, if there was any change in the number of the Palestinian personnel of the civil administration's health sector, this change would not be significant. Thus, it is possible to assume that the numbers of Palestinian health personnel remained as it was in 1984, or witnessed some slight changes in the period of 1987-1993. In both cases, this number is not expected to exceed 3,000 (or 2,955 if remained as it was in 1984) in 1993. Therefore, we would assume that there were 3,000 Palestinian health personnel at the PA's disposal in 1994.

These local health personnel, alongside their diaspora counterparts (mainly the 500-600 who formed the nucleus of PHC) were to enable the PA to assume a smooth and rapid takeover of health service delivery. However, they were not sufficient to meet the increasing demand for health services posed by the high natural growth rate of the population. This rate- as mentioned elsewhere- was to add some 1.2 million Palestinians to the 2 million already living in the WBGS by 2000, and a further 720,000 Palestinians by 2004.

Consequently, the ministry of health, once it took over the health sphere in 1994, had to face the challenge of building human resources capacity. For this purpose, the MoH founded the Human Resources Development Directorate (HRDD) in 1994. The directorate, whose main goal was to upgrade the already existing health skills, was entrusted with many powers such as (1) running training courses and organizing workshops and study days for health professionals; (2) organizing examinations for local physicians to assess their professional skills; and (3) nominating health staff for fellowships and high studies diplomas in various Arab and European countries.<sup>572</sup>

Within one year (1994-1995) the number of the health personnel in the WBGS shifted from 3,000 to 4,758 (an increase rate of nearly 59%). The 4,758 health personnel were employed by the MoH, and were classified as follows: 963 physicians (including the dentists & pharmacists), 1,634 nurses, 804 paramedics and 1,357 administrators. This

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<sup>572</sup> Source: Palestinian Health Information Center (PHIC). Gaza: Ministry of Health.

implies a ratio of health personnel to population of one per 447 persons. As far as the health professionals are concerned, the figures imply a ratio of one physician per 2,208 persons, one nurse per 1,301 persons, one paramedic per 2,644 persons, and one administrator and worker per 1,567 persons.<sup>573</sup>

In the period of 1995-2000, the number of health personnel shifted to 7,458- an increase rate of almost 56%. The following table illustrates the number and the ratio of person per health professional in the MoH in the period of 1995-2000.

Year	<i>Phys</i>	Ratio	<i>Nurses</i>	Ratio	<i>Param.</i>	Ratio	<i>Admin.</i>	Ratio	<i>Total</i>	Ratio
1995	963	2208	1634	1301	804	2644	1357	1567	4758	447
1996	1102	2060	2092	1085	770	2948	1874	1211	5838	389
1997	1201	2067	2147	1156	761	3263	2381	1043	6490	383
1998	1403	1829	2448	1048	804	3191	2110	1216	6765	379
1999	1367	1958	2371	1129	967	2768	2405	1113	7110	377
2000	1631	1714	2457	1138	843	3316	2527	1106	7458	375

Source: MoH. *Health Status*, op.cit., P.45

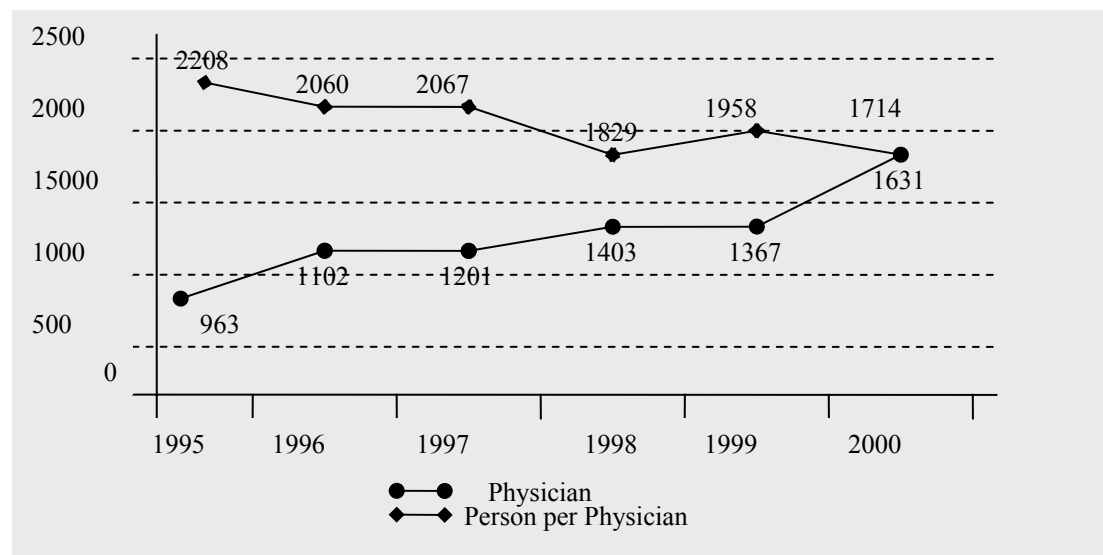
As the table shows, there was a rapid increase in the number of MoH personnel in the period of 1995-2000. Of particular concern is the number of physicians (including the dentists & pharmacists) and nurses. It has been shown that that no changes occurred in the health personnel's general number in the period of 1984-1994. Since the number of physicians and nurses of Gaza Strip was 794 (232 physicians, 566 nurses,) in 1984, and since the number of the health personnel of the Gaza Strip was similar or so to that one of the West Bank in the same year, then it is possible to assume that the number of the West Bank's physicians and nurses was also 794 or so in 1984. (See our above-mentioned discussion on the Palestinian health personnel employed by Israeli civil administration).

Furthermore, since the general number of health personnel in both the West Bank and Gaza Strip did not witness any changes in the period of 1984-1994, it is possible to

<sup>573</sup> MoH. *Health Status*, op.cit., P.45.

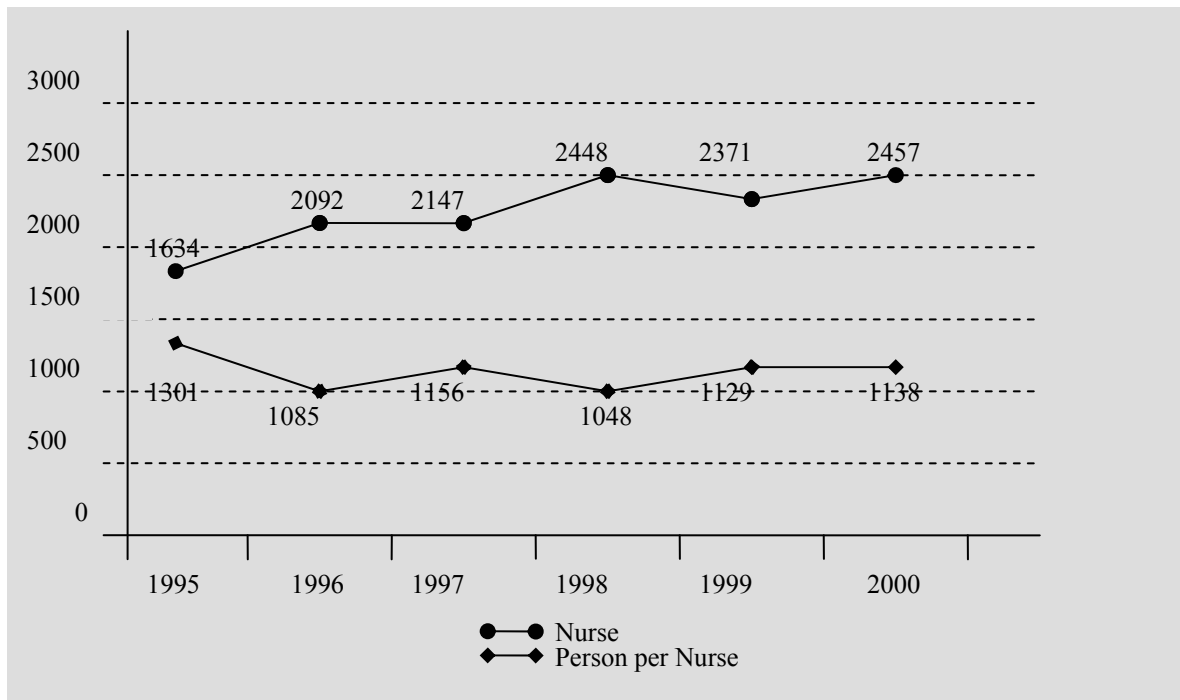
assume that the number of physicians and nurses of both the West Bank and Gaza Strip remained without changes. This means that the number of physicians and nurses in both the West Bank and Gaza Strip can be estimated at some 1,588 (464 physicians and 1,132 nurses) in 1994. In 1995, the number of physicians, as the table shows, rose to 963, an increase of more than 107%. Meanwhile, the number of nurses rose to 1,634, an increase of more than 44%.

In the period of 1995-2000, the number of physicians rose to 1,631, a further increase of more than 69%, while the number of nurses rose to 2,457, a further increase of more than 50%. The graph below shows the changes in the number of physicians and the ratio of physician per person during the period of 1995-2000.



Source: The Palestinian Health Information Center (PHIC). Gaza: Ministry of Health.

Parallel to the rapid increase of the number of physicians in the period of 1995-2000, was a rapid increase in the number of nurses. The graph drawn shows the increase in the number of nurses, and the changes in the ratio of nurse per person during the period of 1995-2000.



Source: *Ibid.*

Thus, it is safe to claim that the first five years of the PA's existence witnessed significant quantitative development in the health personnel of the MoH. Parallel to this development was the one which is related to health establishments, mainly to the number of beds available to each person. We have seen before how the Israeli government (or the civil administration) operated only 13 hospitals (five in the Gaza Strip, and eight in the West Bank) with a total of 1,596 beds since 1967 up to 1994, when the PA arrived to the WBGS.

Since the PA's arrival to WBGS, the hospitals and beds available to Palestinians had been expanded to a notable degree. Within two years (1994-1996) the number of hospital beds shifted to 1,710 (an increase rate of nearly 7%). The following years (1996-2000) witnessed further increases, with an average increase rate of 8.5% annually. This pushed the number of hospital beds to 2,303 by 2000. These beds were distributed among fifteen hospitals operated by the MoH by the same year.<sup>574</sup>

<sup>574</sup> Two new hospitals were opened soon after the outbreak of the second *intifada* in september 2000. The first one was the "The Gaza European Hospital". The hospital was built as a result of financial aid from the European Union. It started operating on 15 October 2000, with 134 beds, and planned to serve some 276,000 Palestinians. The second one was "El Najar Hospital". It started operating on 26 October 2000 with 60 beds, and planned to service the Palestinians of Rafah City- south of the Gaza Strip. Figures from the Palestinian Health Information Center (PHIC). Gaza: Ministry of Health.

The number of beds operated by the MoH formed approximately 44% of the required hospital beds (estimated at 5,250 beds in 2000), and more than of 54% of actual hospital beds in the WBGS.<sup>575</sup> Though this number implies a bed-population ratio of 1-1389 in 2000 (the population of the WBGS is estimated at 3.2 million in 2000<sup>576</sup>), and consequently, suggests some deterioration when compared to the occupation era, when one bed was available to every 1,253 people, it must be recalled that only 22% (as shown above) of the 1,253 people were eligible to occupy a hospital bed under the Israeli occupation. The main reason for this was the high subscription fees of the health insurance.

As explained above, these subscription fees denied the majority of Palestinians access to governmental (civil administration) hospitals, and led to a situation where the bed occupancy rate-according to World Bank estimation- was 62%.<sup>577</sup> The low bed occupancy rate under the Israeli occupation had been changed under the PA, after the subscription fees of health insurance were reduced, and thus, enabled the majority of Palestinians to join the health insurance scheme. From 1994 (when the PA arrived) up until 2000, the number of Palestinian families enrolled in the health insurance scheme rose from 75,800 (as it was on the eve of the PA's arrival to the territories) to 174,866 households.<sup>578</sup>

These families ranged between the families of those employed in the PA civil and security apparatus (compulsory insurance), families of voluntary insurance (voluntary insurance), families of those employed inside Israel, families insured by contract (contract insurance), and social welfare health insurance (this includes the families for whom health insurance subscription fees are paid for by the Ministry of Social Welfare due to their poor economic conditions). The table below illustrates the number of each type of family, and the revenue collected from each type in 2000.

Insurance Type	No. of Families	Monthly fees/family (US\$)	Annual fees/family (US\$)	Total Fees annually (US\$)
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<sup>575</sup> It is worth mentioning that the Palestinian grassroots organisations operated 25 hospitals, with 1,442 beds, while the private sector operated 22 hospital with 453 beds. As well, UNRWA operated one hospital with 38 beds in 2000. Figures from Ibid.

<sup>576</sup> PCBS. *Statistical Abstract*, op.cit., 189.

<sup>577</sup> The World Bank. *Developing the Occupied Territories*, op.cit., P. xiii.

<sup>578</sup> MoH. *Health Status*, op.cit., P.49.

Compulsory	62,276	14	167	10,443,000
Voluntary	8,796	14	171	1,504,500
Israel employees	33,425	18	223	7,463,500
Contracts	40,462	11	139	5,664,000
Social Welfare	29,907	14	167	5,015,000
<b>Total</b>	<b>174,866</b>	<b>14.3</b>	<b>867</b>	<b>30,090,000</b>

Source: concluded from MoH. *Health Status*, op.cit., Pp. 48-49

On average, thus, the family's monthly health insurance subscription fees did not exceed US \$ 14.3 under the PA. This formed approximately 40% of the family's monthly health insurance subscription fees under the Israeli occupation (estimated, as we have seen, at US \$35 monthly). The notable development in this connection is not only related to the reduction in the health insurance fees, but also by the much larger number of families who are covered by the health insurance.

Dr. Mohammad Abu Hashiesh, Director-General of Health Insurance Directorate at the ministry of health confirmed to me that there are, alongside the abovementioned families-, thousands of families covered by the health insurance free of charge. He estimates the number of these families at 140,000.<sup>579</sup> If his figures are accurate, the total number of Palestinian families covered by the health insurance is estimated at 314,866 families in 2000. Bearing in mind that the Palestinian population was estimated at 3.2 million in 2000, and also that the average Palestinian family size is estimated at 6.4 (as mentioned above), then it is safe to claim that nearly 63% of the population had been covered by health insurance by 2000.

Drawing on the above figures, it is possible to provide a table showing the amount of the health insurance subscription fees and the percent of population covered on the eve of the PA's arrival to the WBGS (or up to the end of the occupation era), in comparison to the amount of the health insurance fees and percentage of the population covered in 2000.

<b>Health Insurance Fees</b>	<b>On Eve of PA arrival (1993-1994)</b>	<b>In 2000</b>
<b>% of population Covered</b>		
Health Insurance Subscription fees	US \$ 35	US \$ 14.3
% of Population Covered	22	63

<sup>579</sup> Interview on 19 September 2004.

The expansion of the number of Palestinians covered by the health insurance, whilst simultaneously a reduction in health insurance subscription fees, as the table shows, is owed mainly to a Directorate (the directorate of health insurance) of no more than 83 civil servants (33 in the Gaza Strip, and 50 in the West Bank) with an average monthly remuneration of US\$ 450 for each civil servant.<sup>580</sup> The directorate runs its work through two offices (one in the West Bank and the other in the Gaza strip). Due to the closure it has encountered difficulties in coordinating the two offices' activities. Nonetheless, the directorate has managed, since its establishment in 1995, to grant the majority of Palestinians access to health insurance with low fees.

Mainly, this was due to the directorate's system of administration. The directorate, which enjoys autonomous status from the ministry of health, operates what might be called a "bottom-up model of management", with a strong emphasis on consultation and accountability. The decision making process is a collective one, in which all civil servants (junior and senior alike) contribute to the process. Without exception these civil servants were recruited after they had passed through a long process of professional scrutiny.

The process starts with an initial diagnosis of the academic qualifications and expertise of the candidate. If the academic qualifications and expertise fit with the job specifications, the candidate goes through a "trial-period" in which he performs the job responsibilities for a given period. Should he pass the "trial-period" successfully, he is recruited to the directorate.<sup>581</sup> As a result, all the directorate's civil servants enjoy some sort of professional power, and therefore, strongly favor the "bottom-up" model of management.

The wishes of the directorate's civil servants to operate this model do not clash with the wishes of their superiors. The contrary is the case. Both directors of the directorate's two offices (Abu Hashieh for the Gaza-based office, and Dr. Fahmi El-Sayad for the West Bank-based office) had sown the initial seeds of this model when they founded the above-mentioned recruitment system, and stood as opponents to any form of intervention in their work, even if this was against the health minister or

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<sup>580</sup> Ibid.

<sup>581</sup> Ibid.



deputy-minister's wishes. Ironically, one of the two directors (Abu Hashiesh) had been supported by Israel's foreign ministry to continue his post-graduate studies and to read for his Masters in health insurance at the Hebrew University in Israel (1974-1976).<sup>582</sup> The man who had been supported by Israel operates today one of the most successful public institutions (as the abovementioned figures tell us) among PA public institutions.

Due to the directorate's success in providing the majority of Palestinians with health insurance, the number of Palestinians seeking medical care in MoH hospitals and the occupancy rate of hospital beds had risen considerably since the PA's arrival to the WBGS. In 2000, for instance, the number of Palestinians who sought medical care in the MoH hospitals is estimated at 185,356 (5.7% of the population). Of this, 180,357 (5.6% of the total population) were discharged by MoH hospitals. Out of the discharged patients, 55,943 went through surgical operations. This raised the occupancy rate of the hospitals beds to 72% in the same year,<sup>583</sup> as against to 62% on the eve of the PA's arrival to WBGS (as we have seen before).

However, the high number of patients discharged, and the resultant high occupancy rate of hospital beds, did not imply, by any means, proper and high quality health services. Out of the 180,357 Palestinians discharged by MoH hospitals, were 2,886 hospital deaths,<sup>584</sup> constituting more than 60% of the total deaths in the WBGS in 2000.<sup>585</sup> This high rate of hospital deaths was to strengthen the negative Palestinian attitude toward MoH hospital services, and to promote further Palestinian mistrust and suspicion of MoH hospital professionalism. In August 1999, for example, nearly 16% of the population had already believed that the health care provided to them was weak, compared to 8.6% who believed the opposite.<sup>586</sup>

In this respect, Palestinians are strongly concerned about thousands of Palestinian students who left the WBGS in the late 1980s, and early 1990s, to continue their post-secondary studies and to read for their degrees in medicine, nursing, and other health

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<sup>582</sup> Ibid.

<sup>583</sup> Figures from MoH. *Health Status*, op.cit., P.42.

<sup>584</sup> Ibid.

<sup>585</sup> The deaths in the WBGS is estimated at 4,767 in 2000 (2,903 in the West Bank, and 1,864 in the Gaza Strip). See PCBS. *Statistical Abstract*, op.cit., P. 211

<sup>586</sup> See JMCC Public Opinion Poll No.32. Online <<http://www.jmcc.org>>

fields in former republics of the Soviet Union and other Eastern European countries (Ukraine, Lithuania, Romania, and so forth). A rumor among Palestinians claims that several of these students managed to bribe their professors, and consequently, to pass their examinations with very little effort. In so doing, the rumor goes, these students benefited from the poor economic conditions, and the resultant wide spread corruption, in these countries.

Unfortunately, we lack any evidence substantiating this rumor. But of particular concern for us is the fact that most of these students were recruited by the MoH upon the completion of their studies. In so doing, the MoH sought to deal with local community pressure demanding the employment of these students, whilst simultaneously carrying out decisions made by the political leadership to absorb these students into the ministry. In the words of Abdel El Rahman El Barqawi, Director-General of the MoH:

“Due to the problem of unemployment, and the pressure which we are subjected to from these students’ families, alongside the political leadership’s pressure to create jobs for these students, we had no alternatives but to recruit them in the ministry, though the ministry was in no need for many of them.”<sup>587</sup>

During the first five years of the PA’s existence (1995-2000) the number of MoH physicians shifted from 963 in 1995 to 1,634 in 2000 (an increase rate of nearly 70%). In the meanwhile the number of nurses shifted from 1,634 to 2,457 (an increase rate of more than 50%), and the number of the administrative staff shifted from 1,357 to 2,527 (an increase rate of nearly 87%). (See the table above with relation to MoH personnel in the period of 1995-2000).

Because of the way in which some of these personnel are recruited, most Palestinians are convinced that MoH personnel, in particular doctors, take the sole responsibility for the high rate of hospital deaths. Bearing in mind the countries from which the majority of these doctors had graduated (Eastern countries), such conviction turned out to be an “institution of knowledge and culture” (to borrow the neo-institutionalism

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<sup>587</sup> Interview on 28 October 2004.

concept)<sup>588</sup> in which Eastern countries' educational systems in general are labeled with poor performance by the WBGS Palestinians. Because of this “institution of knowledge and culture”, most WBGS Palestinians prefer Israeli or Arab hospitalization (mainly the Jordanian and Egyptian ones), and, of course, Western Europe hospitalization, over MoH and former Eastern-bloc country's hospitalization.

Aside from this, the PA's tendency to overstaff the MoH, as a means of solving the unemployment problem, led to a situation where most of the MoH budget is spent on staff salaries. This fact was so clear in the years of 1997-2000, as the following table shows:

(000 US\$)				
activities	1997	1998	1999	2000
Salaries	41,102 (44.4%)	39,054 (46%)	39,354 (47.6%)	45,500 (45.3%)
Drugs & Medical Disposables	23,940 (25.9%)	22,417 (26.4%)	21,411 (26%)	24,616 (24.5%)
Special Referral abroad	14,062 (15.2%)	9,326 (11%)	6,095 (7.3%)	6,200 (6%)
Operating Cost	13,280 (14.3)	13,799 (16.3%)	15,739 (19%)	24,020 (24%)
<b>Total</b>	<b>92,384</b>	<b>84,596</b>	<b>82,599</b>	<b>100,336</b>

Source: Reproduced from MoH. *Health Status*, op.cit., P.49

As a result of spending such a large portion of the MoH budget on staff salaries, the MoH experienced a serious financial deficit in the period of 1997-2000. As the table shows, the MoH spent nearly US\$ 360 million in the period of 1997-2000. This exceeded what had been actually allocated to it by ministry of finance by nearly US\$ 35 million.<sup>589</sup> This fact left the MoH unprepared to offer Palestinians with equipment and facilities necessary to deal with serious diseases, such as: Cancer, Heart disorder, and so on. Palestinians suffering these diseases had no option other than to seek treatment in Israeli, European, or neighboring Arab countries (mainly Egypt & Jordan).

<sup>588</sup> For discussion on the “neoinstitutionalism” doctrine see Ronald L. Jepperson. *The Development and Application of Sociological Neoinstitutionalism*. Italy: Badia Fiesolana & San Domenico, 2001.

<sup>589</sup> In 1997 the Palestinian Ministry of Finance allocated nearly US\$93.9 Million to MoH. This sum decreased to US\$86.86 million, to US\$ 74.6 million, and to US\$ 70.48 Million in 1998, 1999, and 2000 respectively. Source: *Ministry of Finance*. Gaza.

Instead of working at finding the facilities (human and material alike) necessary to treat these diseases, the MoH allocated part of its budget (under the label of “Special Referral Abroad”, as the table above shows), for the help of Palestinians suffering these diseases. In so doing, the MoH demotes the sustainable development of the health sector, and promotes, instead, a situation where citizens became fully attached to it, not as a source of health care, but rather as a source of the necessary funding to cover the cost of their medical treatment abroad.

There is a very complicated formal bureaucratic procedure Palestinians have to go through before their request for financial support for medical treatment abroad is approved.<sup>590</sup> Thus many Palestinians - bearing in mind their culture stressing informality at the expense of formality - tend to use informal channels to have their request approved. This leads to some Palestinians (mainly those who have connections with the PA and other power centers) enjoying this privilege and the denial to others of this privilege (i.e. those who lack connections with the PA). All of this sustains the “neopatrimonial” system (discussed in full in chapter III), which, among other things, asserts the customary law based on personal connection at the expense of civil law based on legal and formal relations.

### **The Palestinian Education Sector: Background**

A major aspect of the school system in the WBGS is its four-phase structure. Students have to go through four phases before attending higher academic institutions. The first phase is the kindergarten education for children four to five years old. The second phase is elementary education for children aged six or more. The successful completion of this phase, which lasts for six years, enables students to move to the three-year preparatory phase. Upon the successful completion of the three-year preparatory phase students start the three-year secondary phase. With the completion of this phase, and the student’s success in the General Secondary Education Certificate Examination (or *Tawjihi* as Palestinians call it), students become eligible to attend higher academic institutions.

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<sup>590</sup> MoH. *Health Status*, op.cit., P.51.

Similar to health services, education services are supplied by three sectors: (1) UNRWA, (2) the governmental sector, and (3) the private sector. While the private sector operates mainly fee-paying kindergartens, secondary and vocational schools,<sup>591</sup> UNRWA - as discussed in chapter II- undertook to supply Palestinians with education services soon after the inception of the state of Israel in 1948 without charge.

Since then UNRWA has operated two educational programs: a) the Six Year Elementary Program; and b) the Three Year Preparatory Program. UNRWA did not operate any secondary school program, excluding some vocational programs. In that time- as we have seen in chapter II-most of the secondary schools were private ones, run by some Christian and religious institutions and concentrated mainly in Ramallah and Jerusalem. In that time, only the *ayan* had access to these schools.

After the Israeli occupation of the WBGS in 1967, Israel was inspired by political considerations to make secondary education available to all refugees (see chapter II). Israel operated these schools parallel to some elementary and preparatory schools (mainly for the original residents of the WBGS). While Israel did so, UNRWA remained, operating the six-year elementary program alongside the three-year preparatory program, mainly for refugees.

In the academic year 1989-1990, UNRWA operated 251 schools with 3,326 class sections distributed among elementary, preparatory, and vocational education. In that year, no less than 136,254 students enrolled in UNRWA schools with a pupil-school ratio of nearly 543 pupils per school, and pupil-class ratio of 40.9 per class. The following table illustrates figures relating to pupils at each education level in schools.

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<sup>591</sup> In the academic year 1979-1980, for instance, the private sector operated 195 educational institutions (kindergarten, vocational and secondary schools) with 930 classes enrolled by 48,180 pupils. See Meir Shamgar (ed.). *Military Government in the Territories Administered by Israel, 1967-1980: the Legal Aspects*. Jerusalem: Alpha Press, Vol. 1, 1982, P.445.

Education Level	No. of Schools	Enrolment	No. of Class Sections	No. of Pupils per school	No. of Pupils per Class section
<u>Elementary</u>					
West Bank	32	28,024	816	875.7	34.3
Gaza Strip	104	68,871	1,483	662.2	46.4
<i>Sub-Total</i>	<b>136</b>	<b>96,895</b>	<b>2,299</b>	<b>513.9</b>	<b>40.3</b>
<u>Preparatory</u>					
West Bank	66	11,432	360	173.2	31.8
Gaza Strip	45	26,726	572	593.9	46.7
<i>Sub-Total</i>	<b>111</b>	<b>38,158</b>	<b>932</b>	<b>343.7</b>	<b>39.2</b>
<u>Vocational</u>					
West Bank	3	601	52	200.3	11.6
Gaza Strip	1	600	42	600	14.3
<i>Sub-Total</i>	<b>4</b>	<b>1,201</b>	<b>95</b>	<b>300.2</b>	<b>12.9</b>
<b>Total</b>	<b>251</b>	<b>136,254</b>	<b>3,326</b>	<b>542.8</b>	<b>40.9</b>

*Statistical Yearbook 1989-1990*. Vienna/Austria: Department of Education /UNRWA, No. 26, 31  
December 1990, P.16.

As a general rule, UNRWA follows the same curriculum as the government schools of the countries in which it operates. Since the West Bank and Gaza Strip were under the Jordanian and Egyptian rule respectively in the period of 1948-1967, UNRWA followed the Jordanian curriculum and examination system in the West Bank, and the Egyptian curriculum and examination system in the Gaza Strip. This was in the period of 1948-1967. When Israel occupied the WBGS in 1967, Israel wanted to allow Palestinians to enjoy some sort of autonomy in the civil fields, among which was the education field. This tendency went in parallel with Moshe Dayan's policy of "non-intervention" in Palestinian civil affairs (as we discussed in chapter II). Accordingly, UNRWA continued to follow the Jordanian and Egyptian curriculum and examination system in the West Bank and Gaza Strip respectively.

Most of UNRWA's teaching staff was recruited from among the local community. In the academic year 1989-1990, there were 4,130 Palestinian teachers working in UNRWA schools (2,535 in elementary schools, 1,445 in preparatory schools, and 168 in vocational schools). Of the 4,130 teachers, 1,414 were from the West Bank (838 in elementary schools, 481 in preparatory schools, and 95 in vocational schools), and the

remaining 2,716 were from the Gaza Strip (1697 in elementary schools, 964 in preparatory schools, and 73 in vocational schools).<sup>592</sup> Some of these teachers were trained by UNRWA within the context of “pre-service teacher training”, or “in-service teacher training”. In 1989, UNRWA spent approximately US\$ 35,718,000 on the salaries of Palestinian teachers employed in its schools and on training these teachers, within the context of the above mentioned programs. The table below illustrates the items of UNRWA expenditure in 1989.

Item	US\$	No. of Teachers	Annual Salary (US\$)/teacher	Monthly Salary (US\$)//teacher
<b>Salaries</b>				
- Elementary	19,987,367	2,535	7,884	657
- Preparatory	12,321,708	1,445	8,527	710
- Vocational	2,264,304	168	13,478	1,123
<b>Training</b>			----	-----
-Pre-service	755,422	436	---	--
Teacher training				
-In-service Teacher Training	243,022	264		
<b>Total</b>	<b>35,718,823</b>			

Source: *Ibid*, Pp. 15, 16, 28.

Parallel to UNRWA schools were the governmental schools. The Israeli government, as mentioned above, operated schools for the three education levels; elementary, preparatory, and secondary. While the government’s elementary and preparatory schools were confined only to the original residents of the WBGS, the government’s secondary schools were available to refugees as well. In the academic year of 1979-1980, for instance, the Israeli government operated 894 schools in which 264,065 pupils were enrolled, distributed between West Bank and the Gaza Strip as the table below shows.

Region	No. of schools	No. of classes	No. of Pupils	Pupils-school Ratio	Pupil-Class Ratio
West Bank	790	5,761	199,437	252.5	34.6
Gaza Strip	104	1,659	64,632	621.5	38.5
<b>Total</b>	<b>894</b>	<b>7420</b>	<b>264,065</b>	<b>295.3</b>	<b>34.6</b>

Source: Shamgar (ed.), op.cit., P.445.

<sup>592</sup> *Statistical Yearbook 1989-1990*, op.cit., P.16.

At least 10,786 Palestinians (8,316 in the West Bank, and 2,470 in the Gaza Strip) were employed by the government as teachers and administrators to run these schools.<sup>593</sup> It seems highly unlikely that the number of government schools in the WBGS witnessed any increases during the period of 1980-1994. In fact the contrary might be the case. Sara Roy, for instance, noted a breakdown in the number of schools operated by the government in the Gaza Strip in this period. According to Roy, there were only 87 schools operated by the government in the academic year of 1984-1985. These schools, which formed up to 1,683 classes, were distributed among the three education levels as following; 42 schools for elementary education, 23 for preparatory education, and 22 for secondary education. The government schools in 1984/1985 are illustrated by the following table.

Level	No. of schools	No. of classes	No. of Students	No. of Students/school	No. of Students/class
Elementary	42	992	40,889	973.5	41.2
Preparatory	23	278	10,820	470.4	38.9
Secondary	22	413	16,466	748.5	39.9
<b>Total</b>	<b>87</b>	<b>1683</b>	<b>68,175</b>	<b>783.6</b>	<b>40.5</b>

Source: Based on Roy. *The Gaza Strip*, op.cit., P.93

Roy's figures might serve as a solid base to infer the overall educational policy of Israel toward the WBGS from 1980 onwards. As discussed in chapter II, this period was the period of the Right Wing (the Likud party) rule in Israel. During this period, Israel radicalized its measures towards Palestinian autonomous institutions, among which were the educational ones. Thus, the Israeli Civil Administration was founded in November 1981 to administer Palestinian civilian affairs. The civil administration was subjected to, and authorized by the area commander to issue second hand legislation in issues related to the civil affairs of Palestinians (See chapter II).

Drawing on these authorities and powers, the Israeli Civil Administration assumed strict control and supervision over Palestinian civil affairs, and their institutional manifestations including schools. Accordingly, we can assume that Israel had no interest in developing schools in this period. This implies that the total number of government schools for all education levels is estimated at no more than 877 schools

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<sup>593</sup> Shamgar (ed.), op.cit., P.444



(790 in the West Bank, as Shamgar concluded in 1980, and 87 in the Gaza Strip as Roy concluded in 1985).

Bearing in mind the civil administration's attitude towards Palestinian autonomy as discussed above, and parallel to the eruption of the *intifada* in the period 1987-1993, we can assume that the number of schools operated by the government witnessed no changes in the period 1984/85-1993/94. In other words, the number of governmental schools remained the same in the academic year 1993/94 as it was in the academic year 1984/85 (877 schools). Given this number, we conclude that there was a breakdown in the number of government schools in the period of 1980-1994 (from 894 in 1979/80 to 877 in 1993/94). This breakdown led to a high ratio of pupils per class (the ratio was 34.6 pupils per class in 1980, rose to 40.5 in the Gaza Strip in 1984/85, and of course- providing our above-mentioned conclusions- also rose in the period of 1984-1994 in both the West Bank and Gaza Strip).

The difficulties encountered within the Palestinian education system under the occupation were not confined only to the high pupil-class ratio, but also included the strict watch of the Israeli civil administration over the educational materials employed in the schools. All books and subjects that dealt with Palestinian history, geography, politics and folklore, were banned. The word "Palestine" was removed from school maps, and replaced by the word "Israel". In addition, the civil administration denied Palestinian schools the right to enjoy the educational facilities and equipment necessary for any educational process concerning subjects such as efficient sewage system, computer labs, chemical materials, adequate class buildings, and laboratories. Ali Khalifa, Director-General of Education Planning at the Palestinian Ministry of Education, who worked as an educational instructor under the occupation, pointed out:

"The overall goal of the occupation's educational policy was the destruction of the Palestinian national identity, through weakening the national consciousness among Palestinians. The means for realizing this goal was the education curriculum. The occupation reproduced this curriculum to support its interest over that of Palestinians. In the meanwhile, they did very little to improve and develop the educational facilities, in a manner that left the whole educational process suffering."<sup>594</sup>

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<sup>594</sup> Interview. Gaza: Ministry of Education., 25 September 2004.

During the first *intifada* (1987-1993) the conditions of Palestinian schools deteriorated considerably. As we have seen in chapter II, the occupation -in parallel to the policy of collective punishment- imposed formal mass closure on the West Bank schools and spot closures on the Gaza Strip schools from February 1988. This measure deprived thousands of Palestinian pupils of their right to education, and thereby, endangered their academic future.

Israeli measures toward Palestinian schools were similar to their measures toward the higher academic institutions. Most of these institutions, emerged in the early 1970s, suffered the same restrictions as schools. The civil administration, for instance, empowered itself with the right to license the Palestinian universities annually. No university was allowed to operate new departments, programs or colleges without prior permission from the civil administration. In most cases, such permission was denied. In a similar fashion to its measures against schools, the civil administration assumed strict watch over the universities' educational materials, and many books in fields like philosophy, Palestinian history, politics and folklore were banned.

Furthermore, the civil administration used to close these institutions regularly, and to deport their college members under the pretext of security. In the period of December 1986-April 1987, the civil administration's measures against these institutions were extremely radicalized when three students from Beir Zeit University were shot to death by the occupation forces (For more details on Israeli measures towards the higher academic institutions see chapter II). During the *intifada*, the occupation authorities completely closed these institutions, thus causing serious difficulty in enrolling the more than 40,000 Palestinian students who had graduated from secondary schools during the four year period when the universities were closed.<sup>595</sup>

Similar to the health sector, therefore, the PA inherited a very regressive education sector from Israel, and thus was required to address very complicated problems in the education system. Among these problems was the lack of equipment and facilities necessary to run schools, and more importantly, as Khalifa pointed out, the lack of adequate and qualified teaching staff. The later problem resulted from the occupation

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<sup>595</sup> See UN. *Life of the Palestinians Under Israeli Occupation*. Report of the Special Committee to Investigate the Israeli Practices Affecting the Human Rights of Palestinians People and other Arabs of the Occupied Territories, January 1992, P.27.

policy which denied all Palestinian teachers the opportunity to pursue advanced training courses, and excluded University-degree holders from employment in the schools in favor of Tawjihi (General Secondary Education Certificate Examination) or two-year diploma holders.<sup>596</sup>

### **The Palestinian Ministry of Education: A New Chapter in the Educational Life of Palestinians**

During the first three years of the PA's existence (1994-1997) donors disbursed approximately US\$ 237,904,000 for the support of the PA education sector. This formed up to 71.6% of the total Donors commitment to the same sector (US\$ 334,775,000) for the same period.<sup>597</sup> The majority of these funds was invested in implementing education projects like the establishment of new schools and school maintenance. In this regard, the Palestinian Economic Council for Development and Reconstruction, or PEC DAR, played a crucial role in implementing these projects in coordination with the ministry of education and donors (the European Union, Germany, Japan, France, and Switzerland were the chief financial supporters of the education sector during this period.)<sup>598</sup>

As result of this, the number of government schools in the WBGS had increased significantly. From the academic year 1994/95 to the academic year 2000/2001, the number of government schools for all education levels increased from 1084 to 1343 schools.<sup>599</sup> Bearing in mind that the Israeli civil administration operated 877 schools around the date of the PA's arrival to the WBGS, it becomes clear that there was a rise in the number of government sector schools by more than 19.4% by the academic year 1994/95, and by more than 53% by the academic year 2000/01.

This development implies an expansion in the number of classes available to pupils, and thereby, a reduction in the ratio of pupils per class in comparison to the occupation era. In the academic year 1995/96, the pupils-class ratio in the government

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<sup>596</sup> Interview. Gaza: Ministry of Education., 25 September 2004.

<sup>597</sup> See *MOPIC's 1997 Third Quarterly Monitoring Report of Donor Assistance*. Gaza: MOPIC, October 1997, (unpublished report).

<sup>598</sup> Ibid.

<sup>599</sup> Figures from Palestinian Ministry of Education. <<http://www.mohe.gov.ps>>

elementary and preparatory schools is estimated at 36.2 pupils per class. The ratio shifted down in 2000/01 to 36.1 pupils per class. The conditions of the secondary schools seemed relatively better, as only 32.3 pupils occupied one class in the academic year 1995/96. The number shifted down in 2000/01, with only 31.5 pupils per class. The figure below illustrates the changes in the number of schools, pupil-school ratio, and pupil-class ratio, in the period of 1995/96-2000/01.

Year	1995/96	2000/01
<b>Education level</b>		
<b>Secondary</b>		
No. of schools	<b>110</b>	<b>158</b>
No. of Pupils	46, 334	72,215
Pupils-school ratio	421.2	457.
Pupils class Ratio	32.3	31.5
<b>Basic(Elementary &amp; Preparatory)</b>		
No. of schools	<b>959</b>	<b>1185</b>
No. of pupils	401,488	543,343
Pupils-school ratio	462.78	485.29
Pupils-class ratio	36.2	36.1

Source: Based on Palestinian Ministry of Education <<http://www.mohe.gov.ps>> & PCBS. *Statistical Abstract*, op.cit., Pp. 227, 228, 230, 234.

Parallel to the reduction in the pupil-class ratio, there was an increase in the number of teachers per pupil. In the academic year (1995/96) the number of teachers is estimated at 14,742. The number shifted in 2000/2001 to reach 22,953,<sup>600</sup> and thereby, the ratio of pupils-teacher decreased to 26.8 pupils per teacher.

The improvement in the education sector was not confined to the expansion in school establishments, but extended to include the higher academic institutions. By the academic year 2000/2001, the number of these institutions is estimated at 40. There were 11 universities, 5 colleges (offering four-year Bachelor's degrees), and 24 community colleges (offering two-year diplomas). At least 4,838 Palestinians were employed in these institutions.<sup>601</sup> This included the teaching staff (2,343) and the administrative staff (2,495). These employees run a post-secondary educational system that in 2000/2001 provided for over 80,543 students.<sup>602</sup>

<sup>600</sup> PCBS. *Statistical Abstract*, op.cit., P.233.

<sup>601</sup> Figures from Palestinian Ministry of Education. <<http://www.mohe.gov.ps>>

<sup>602</sup> Ibid

In the 2000/2001 academic year the ministry of education was running an educational process for no less than 696,101 Palestinians (615,558 in primary and secondary education & 80,543 in higher education). To run the process successfully, the ministry organized more than 1,653 training courses and workshops covering a total of 12,680 working days in the period of 1995-2000. 37,700 teachers/administrators benefited from the ministry's training courses and workshops in the same period. Furthermore, at least 1,970 Palestinian headmasters were trained by the ministry in the same period.<sup>603</sup>

Parallel to its efforts aiming at developing human resources capacity, the ministry revised the recruitment policy as far as teachers are concerned. Unlike the occupation era when the preference was given for the *Tawjihi* (General Secondary Education Certificate Examination) two-year diploma holders, the ministry recruited school teachers mainly among university or graduate degree holders. In the academic year 2000/01, for instance, at least 63.3% of the total ministry school teachers were university or graduate degree holders (out of the 22,952 teachers, 12,828 were university-degree holders, 1,029 graduate-diploma holders, and 459 Masters holders).<sup>604</sup>

Alongside this policy was the ministry's policy of supplying schools with equipment and facilities necessary for any education process like; laboratories, computer rooms, chemical materials, adequate libraries, class buildings, and so forth. Up to the academic year 1999/2000, for instance, approximately 1,842 new classes were added to government schools (not to mention the new schools built by the ministry). In addition, at least 412 classes were improved, and 150 sewage units were built. Furthermore, new libraries were opened in 40% of government schools, and new science laboratories in 42%, and computers labs were introduced to 30% of government schools.<sup>605</sup>

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<sup>603</sup> See Ministry of Education. *Al Khita El Khamsyah Li El Ta'leem fi Falistine (The Five-year Plan for Education in Palestine)*. Gaza: Ministry of Education, December, 2000, P.12.

<sup>604</sup> See Ministry of Education. *El Ta'leem Li El Jame'a: El Waqie' wi El Tahdyaat*. (Education for All: Facts and Challenges). Gaza: Ministry of Education, 1th part, 2004, P.55.

<sup>605</sup> Ministry of Education. *Al Khita El Khamsyah*, op.cit., Pp12-13.

Of vital importance was the ministry's success in convening the first unified examination of *Tawjihi* for the West Bank and Gaza Strip under full Palestinian supervision. This was in the academic year 1994/95. Up to that year Palestinians from the West Bank and Gaza Strip had experienced two systems of examination (the Egyptian system for Gaza Strip Palestinians, and Jordanian system for West Bank Palestinians). From that year onwards, the ministry assumed the responsibility of designing the examination system of *Tawjihi*, and Palestinian teachers began to correct *Tawjihi* exams (in the past Egyptian teachers corrected the exams for the Gaza Strip students, while Jordanian teachers corrected exams for the West Bank students).

Since its foundation, therefore, the Palestinian ministry of education had succeeded in setting up new schools, building new classes, raising educational human resources capacity, and improving education conditions (in the sense of pupil-class ratio, pupil-teacher ratio, and education facilities and equipment). To achieve all this, the ministry divided itself into seventeen General-Directorates, out of which thirteen run school education (elementary, preparatory, and secondary education), and four run higher education (university, college education). In each Palestinian governorate (the WBGS are divided into sixteen governorates, out of which eleven governorates are in the West Bank, and 5 governorates are in the Gaza Strip) an education directorate was founded. The minister, who is considered the highest authority at the ministry, is assisted by a deputy minister, who is in turn assisted by three assistant deputy ministers.

The three assistant deputy ministers directly supervise the educational process. Two of them supervise the educational process at the primary and secondary school level; one for the Gaza Strip, and the other for the West Bank. For this reason the directors of each education directorate were appointed at the governorate level to facilitate reporting to the two assistant deputy ministers. The third assistant deputy minister supervises higher education. In this regard, he directs the four General-Directorates of the higher education at the ministry (D.G. of higher education, D.G. of scientific research and development, D.G. for university education, D.G. for technical and vocational training).

The three assistant deputy ministers are required to report regularly to the deputy minister, who, alongside his duties to follow up the work of his three assistants, supervises five committees in the ministry (examination committee, educational committee, curriculum committee, accreditation and quality assurance committee, and committee for loans). The deputy minister reports to the highest authority, the minister, who directly supervises the council for higher education and the council for scientific research in addition to his supervision of his deputy.<sup>606</sup>

The ministry recruited 5,910 Palestinians to run its work. This number excludes ministry teachers but includes administrators (3,263), technicians (531), employees (83), and janitors/cleaning staff (2033).<sup>607</sup> As with the case of the ministry of health, the spending on staff salaries consumed the largest portion of the ministry's expenditure since its establishment in 1994. In 1997/98, for instance, the spending on staff salaries (including teachers) was estimated at US\$ 130 million. This formed up to 67% of the ministry's total expenditure for the same year (estimated at US\$ 194 million). The same trend is noticed in the following years of 1998/99, 1999/00, and 2000/01. In these years, the spending on staff salaries is estimated at 75.2% (US\$ 140 million), 74% (US\$ 157 million), and 73.2% (US\$ 189 million) of the ministry's total expenditure for these years respectively (the ministry's total expenditure was US\$ 186 million, US\$ 212 million, and US\$ 284 for 1998/99, 1999/00, 2000/01 respectively).<sup>608</sup>

As result of spending a large portion of its budget on staff salaries, the ministry of education experienced a serious financial deficit in the period of 1997-2000. As we mentioned above, the ministry's total expenditure is estimated at US\$ 876 million in the period of 1997-2001. This exceeded the US\$ 433.385 million that had been allocated to it by the ministry of finance in the period of 1997-2001).<sup>609</sup>

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<sup>606</sup> See the ministry's organizational chart on the official webpage of the ministry <http://www.mohe.gov.ps>

<sup>607</sup> Ministry of Education. *El Ta'leem Li El Jame'a*, op.cit., P.56.

<sup>608</sup> Ministry of Education. *Al Khita El Khamisyah*, op.cit., P.28.

<sup>609</sup> The allocation of the Ministry of Finance to Ministry of education in the period 1995-2000 was as follows: US\$ 111.781 million in 1995, US\$ 118.788 million in 1996, US\$ 137.221 in 1997, US\$ 145.936 Million in 1998, US\$ 48.522 million in 1999, US\$ 51.032 million in 2000, and US\$ 50.672 million in 2001. Source: *Ministry of Finance*, Gaza.

Though donors allocated US\$ 164.2 million to the education sector in the same period or so, this allocation was not sufficient to cover the ministry's deficit.<sup>610</sup> Because of this, the ministry failed to provide 60% of governmental schools with libraries, and 58.4% with science laboratories. In the meanwhile, it failed to introduce computers labs in 76% of West Bank schools, and 65% of Gaza Strip schools by 2000 or so.<sup>611</sup>

To deal with this problem and other similar ones, the ministry envisaged a five-year plan (2000/001-2004/05) for the development of primary and secondary education in 2000. The plan set up five goals, the most important of which were to improve the quality of education and to rationalize the ministry's system of administration. To realize its first goal, the plan proposed training programs to develop human resources capacity, and projects to develop material resources capacity. At human resources capacity level, the following training programs were proposed;

- A training program for in-service teachers and headmasters with a total of 30 training hours annually, and a training program for newly employed teachers with a total of 60 training hours annually.
- A training program for the ministry's junior and senior staff, with a total of 45 and 90 training hours annually respectively.
- Training courses in leadership covering no less than 25% of the Palestinian schools annually, and finally;
- 100 (within-country) scholarships every year, for graduates studies programmes for teachers.<sup>612</sup>

At the material resources capacity level, the plan proposed, among other things, the following projects;

- A) Building 4 training centers for teachers, 10 resources centers, one technological center, and one center for documentation.
- B) Equipping 150 schools with libraries, 150 schools with science laboratories, 250 schools with computer rooms, upgrading 100 existing libraries, and 100 laboratories, and a minimum of 250 schools with computer labs.<sup>613</sup>

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<sup>610</sup> Ministry of Education. *Al Khita El Khamsyah*, op.cit., P.31

<sup>611</sup> Ibid.P.13.

<sup>612</sup> Ibid., P.21.



To meet the expected demand for educational services in the period of 2000/01-2004/05, the plan proposed the construction of a further 243 schools with 3,539 classrooms, and the recruitment of a further 5,500 teachers.<sup>614</sup> The cost of constructing these facilities, over and above the expenditure on staff salaries (including teachers) and the cost of realizing the above-mentioned sub-goals, and other plan goals, were estimated by the ministry at US\$ 1,433 million.<sup>615</sup> In fact this high budget remained the chief obstacle for the plan's success. To cover this budget, the ministry proposed an increase in its share of the total PA budget from 17% to 19.5%, to be effective from 2000 onward.

More importantly, the ministry proposed a significant increase in the donors' allocation to the education sector over the plan's years, in a manner that leaves the donors' commitment equal to the ministry's expenditure by 2004/05.<sup>616</sup> But bearing in mind that the donors' disbursement or allocation to education sector is estimated at 71.6% of their commitment to the sector for the period of 1994-1997 (as mentioned above), it seems unlikely that the donors were going to allocate as much as they (donors) committed. This can be better understood if it is known that the ministry asked donors to allocate any future funds for the planned activities only.

Fully aware of the donors' possible reluctance to support the plan, the plan's designers proposed the rationalization of the ministry's system of administration as a step toward rationalizing ministry expenditure, and thereby, securing part of the funds necessary to cover the planned budget.<sup>617</sup> This goal, set up as one of the plan's chief goals (as noted above), reflected the awareness of the plan's designers of the negative ramifications of the absence of definite internal hierarchical arrangements, and a well-developed functional specialization in the ministry. Though the ministry is considered the least corrupt among various PA ministries and public institutions (in terms of ministry recruitment criteria and procedures) it continued to suffer from duplication

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<sup>613</sup> Ibid., P.22.

<sup>614</sup> Ibid. P.25 & *Al Khita El Khamsyah Al-Tatwiryah Al-Olah, 2001/2005: Mwjz Tawdihi* (The first developmental five-year plan: brief description). Gaza: Ministry of Education, P.3

<sup>615</sup> See Ministry of Education. *Al Khita El Khamsyah*, op.cit., P.33.

<sup>616</sup> See Ibid., Pp.29-31

<sup>617</sup> Ibid., P.23.

and the lack of demarcation among the roles and responsibilities of its civil servants and various departments.<sup>618</sup>

Consequently, the plan's designers called for the reconsideration of the ministry's civil servants' functions and mandates, and for a redefinition of the ministry's internal regulations and rules. The main obstacle for realizing this goal was the absence of the qualified human resources to carry out the program of rationalization (reform), notwithstanding the availability of thousands of Palestinian personnel of former Israeli civil administration at the ministry's disposal. Though these personnel accumulated some professional skills due to their work in the Israeli civil administration, most of them were still missing skills necessarily located at the heart of any administration – such as the ones in relation to policy formulation, planning, decision making, and so forth.<sup>619</sup> Most of them were denied senior management posts in the Israeli civil administration, and thus, were unprepared to create fundamental changes in the system of administration of PA ministries.

In addition to the lack of necessary human resources to make it successful, the program itself clashed with the will of the political leadership which - as we have seen in chapter III - had sown the seeds of the “neopatrimonial” system with its features such as the importance of interpersonal relationships in the bureaucratic system, and the operation on the basis of informal criteria for hiring and promotion at the expense of the formal-legal criteria.

The plan, therefore, had to encounter challenges at three levels; the financial level, human resources level, and finally the political level. With the outbreak of the *Al-Aqsa intifada* on 28 September 2000, the future of the plan became uncertain, and the plan seemed unlikely to be implemented. The execution of the plan became conditional on the Israeli measures imposed on Palestinians during the *intifada*.

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<sup>618</sup> On 27 February 1997, the local daily of *Al-Risalah* published an interview with Jarrar Kidwa, head of the General Monitoring Commission (GMC) in which he asserts that most PA ministries and public institutions suffered the overlapping of their civil servants' responsibilities. Despite this, he considered the ministry of education as the least among these ministries and institutions to recruit its employees through informal channels (e.g. nepotism). See *Al-Risalah* on 27 February 1997.

<sup>619</sup> Yezid Sayigh & Khalil Shikaki. *Strengthening Palestinian Public Institution*. Task Force: Council on Foreign Relations, June, 1999, P.44. Online <<http://www.cfr.org/pdf/palinstfull.html>>

These measures - the most humiliating of which consisted of the military checkpoints on the main roads between the towns, cities, villages, and camps of WBGS - denied Palestinians the right to free movement between their cities, towns, villages, and camps. Without exception all Palestinians were affected by this measure including; the general public, PLC members, PA senior & junior officials, university and school students, merchants, businessmen, and in some cases PA ministers and heads of PA security forces. The checkpoint system, together with the regular shelling of and the incursions into the camps, towns, and cities, have created an environment in which it has become increasingly difficult for any ministry to execute its plans and programs, and even to assume its daily responsibilities.

### **The Palestinian Ministry of Social Affairs: Ineffective Social Security Scheme**

In October 1991 the UN's special committee to investigate Israeli practices affecting the human rights of Palestinians people and other Arabs of the Occupied Territories concluded its annual report on the political, security, economic, and social conditions of the Palestinians of the West Bank and Gaza Strip. The report pointed out that Israel-since its occupation of the WBGS in 1967- had adopted systematic measures of violating the basic human rights of Palestinians.

These measures included the destruction of Palestinian houses, ill-treatment and torture of Palestinians under detention, including children and minors, collective punishment and mass arrest, the confiscation of Palestinian land for settlement purposes, the interference in the Palestinians system of education, economic and social development, and the denial of the Palestinian right to freedom of religion.<sup>620</sup> The report asserted that these measures had escalated since the outbreak of the first *intifada* in 1987, leaving 53.7% of the Palestinian land and 83% of the water resources under the Israeli control by 1990.<sup>621</sup>

Parallel to this was the Israeli occupation forces' policy of firing at both Palestinian civilians and members of the resistance. During the period of December 1987-1992, at least 1,032 Palestinians - the report documented- were killed (most of them by

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<sup>620</sup> See UN. *Life of the Palestinians*, op.cit., P.9.

<sup>621</sup> Ibid., Pp.17-18.

shooting), and over 121,000 were injured by Israeli occupation forces. Also, more than 15,000 Palestinians were placed under administrative detention for periods up to six months without charge or trial during the same period. Moreover, 66 Palestinians were deported for “security reasons” (more than 1,300 since 1967). As far as the curfew days and house destruction are concerned, the report documents over 11,000 days of curfews, and the destruction of over 21,000 houses.<sup>622</sup>

Israeli measures brought hardship to the economic life of Palestinians as well. Due the policy of curfew which confined Palestinians, on a 24-hour basis, to their homes for several weeks at a time, many Palestinians were cut off from their jobs (employment inside Israel for instance), and the number of those employed by Israel decreased by 2% in 1989 in comparison to the pre-*intifada* era.<sup>623</sup>

With the outbreak of the first Gulf-War in 1991, and the supportive attitude of the PLO to the Iraqi invasion of Kuwait, Gulf rulers cut off their donations to the PLO, and dismissed thousands of Palestinians employed in their countries. In so doing, Gulf rulers deprived Palestinians from the WBGS of some US\$ 576 million - the estimated drop in remittances from Palestinians employed in these countries.<sup>624</sup> This fact, coupled with the policy of closure, adopted since 1991, which effectively denied thousands of Palestinians the ability to work inside Israel, brought serious hardship to the living conditions. It left no less than 18.2% of WBGS Palestinians (the estimated rate of unemployment due to the closure policy in 1994 or so<sup>625</sup>) without any source of income.

Within the context of these difficult economic and social conditions the Palestinian Ministry of Social Affairs was asked to operate from 1994. The ministry was asked to deal with the serious social problems resulting from the occupation’s measures (economic, political, and security measures). As we have seen, hundreds of Palestinian families lost their sons, fathers, and other relatives since the Israeli occupation of the WBGS. Tens of thousands of others suffered from the detention of

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<sup>622</sup> Ibid., P.59.

<sup>623</sup> Ibid., P.23.

<sup>624</sup> Ibid., P.33.

<sup>625</sup> See PCBS. *Labour Force Survey (April-June, 2004) Round (Q2/2004)*. Ramallah/Palestine: July 2004, P.17

their relatives by the Israeli forces. Hundreds of thousands of Palestinians were injured, out of which tens thousands were left disabled.

Two factors enabled the ministry of social affairs to assume a rapid and relatively smooth takeover of services delivery in the social sector; (1) the availability of nearly 400 Palestinian personnel of the former Israeli civil administration's social sector, and (2) the return of no less than 60 personnel of the employees of the PLO's social affairs department to the WBGS in 1994. These personnel, together with some 200 local social specialists- formed the nucleus of the ministry.<sup>626</sup>

Over the years of their work, these personnel accumulated skills concerning the delivery of social services. The 400 personnel of the former Israeli civil administration, for example, used to run 5 centers for blind and handicapped children, and 15 juvenile centers under the Israeli civil administration's supervision. In a similar fashion, the 60 personnel of the PLO's social department used to supply social services for more than 25,000 Palestinian families (mainly the families of martyrs) in the diaspora.<sup>627</sup>

The availability of these skills enabled the ministry to set up its first building block; the Higher Council for Policy Formulation (HCPF). The HCPF was franchised right to set up the ministry's overall goals, and strategies. Within this context, the HCPF- which consisted of the minister, deputy-minister, and eight director-generals, set up no less than fourteen goals, the most important of which were to alleviate poverty, to support families of martyrs, injuries, and detainees, to defend children and women's rights, and to achieve social development. The means to realize these goals were a group of programs for the support of needy families, families of martyrs, the injured, and detainees, as well as women and children, the handicapped, and orphans.<sup>628</sup>

To carry out these programs, twelve directorates were founded in the ministry. At the same time, in each Palestinian governorate an office for the ministry was founded (sixteen offices were founded in the sixteen Palestinian governorates of the WBGS).

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<sup>626</sup> Interview with Mahmmoud Muteer, Acting Deputy-Minister of Social Affairs. Gaza: Ministry of Social Affairs, 27 September 2004.

<sup>627</sup> Ibid.

<sup>628</sup> Ibid.

Each directorate was divided into several departments, with an average of six departments for each directorate. A director-general stands at the head of each directorate, controlling and supervising the heads of his directorate's departments. In this sense the ministry has twelve directors-general (for the directorates), and seventy department heads (for the departments).<sup>629</sup>

Together with the junior staff, the number of the ministry's civil servants is estimated at 1,438 civil servants.<sup>630</sup> These servants are asked to carry out their daily responsibilities specified by the HCPF to realize the above-mentioned goals of the ministry. During the period of 1995-1999, these servants dealt with over 73,108 cases serving 275,642 Palestinians.<sup>631</sup>

Of this, were approximately 29,477 cases (excluding the families of martyrs, the injured, and detainees) receiving constant monthly material, cash, and health aid. These cases ranged between the handicapped, divorced and widows, aged personnel, and others. The following table illustrates the type of each targeted group, and the number of cases in both the West Bank and Gaza Strip.

<b>Target Group</b>	<b>No. in the Gaza Strip</b>	<b>No. in the West Bank</b>	<b>Total</b>
Widow	4,956	3,188	8,144
Divorcée	1,578	8,57	2,435
Handicapped	4,738	3,637	8,375
Aged	2,436	3,391	5,827
Others	2,648	2,048	4,696
<b>Total</b>	<b>16,356</b>	<b>13,121</b>	<b>29,477</b>

Source: Cabinet Office. *Cabinet Reports on PNA Ministries: 1997-1998*. Palestine: Cabinet Office, September 1998, P.101.

The aid provided to each of these social cases is estimated at NIS 80 as monthly material aid, NIS 180 as monthly cash aid, NIS 40 as monthly health insurance aid, and NIS 50 as monthly education aid for each student of the needy families (the

<sup>629</sup> Ibid.

<sup>630</sup> The ministry of social affairs is ranked the first among other PA ministries and public institutions as far as the number of female civil servants is concerned. Out of the 1438 of the ministry's civil servants, there are 634 femal (more than 44%) in comparsion to 795 male (more than 55%). Source: Ministry of Social Affairs, Gaza.

<sup>631</sup> Source: Ibid.

number of needy families students is estimated at 69,000 students).<sup>632</sup> Combining these figures with the number of cases, the following table illustrates the total cost of each type of aid for all cases per month and year:

Type of Aid	Monthly cost per case (in NIS)	Annual cost/case (in NIS)	Annual cost for all cases (in NIS)	Value of Annual cost in US \$ (US\$ 1= NIS 4) for all cases
Material	80	960	28,297,920	7,074,480
Cash	180	2,160	63,670,320	15,917,580
Health Insurance	40	480	14,148,960	3,537,240
Education	50	600	41,400,000	10,350,000
<b>Total</b>	<b>350</b>	<b>4200</b>	<b>147,517,200</b>	<b>36,879,300</b>

In addition to aids provided to these social groups, were the aids and care provided to families of martyrs, the injured, and detainees. These aids and care are provided mainly by the Institute of Martyrs, Injured, and Detainees' Families. Since its foundation in 1994, the institute – which follows the minister directly – had dealt with approximately 7,178 cases, out of which were 3,774 martyrs' families, 1,445 injured persons' families, 1,570 detainees' families, and 398 others. These families enjoyed cash, health, and education care. At least NIS 345 is the estimated monthly cash aid for each case. Furthermore, nearly NIS 40 is spent on each case as monthly health insurance aid, while martyrs' sons are exempted from the education fees. The table below illustrates the items of cash spending on these families, and the number of families of each type:

Family type	The Number	Monthly Cash aid/case NIS	Annual Cash aid/case NIS	Total Annual aid NIS	Value in US\$
Martyrs' Families	3,774	294	3,526	13,314,672	3,328,668
Injured Persons	1,445	256	3,072	4,439,040	1,109,760
Detainees	1,570	602	7,224	11,341,680	2,835,420
Others	3,98	227	2,724	1,084,152	271,038
<b>Total</b>	<b>7,178</b>	<b>1,379</b>	<b>16,548</b>	<b>30,179,544</b>	<b>7,544,886</b>

Source: Ibid. P.108.

<sup>632</sup> See Cabinet Office. *Cabinet Reports*, op.cit, Pp.101-102.

Together with the health aid of these families (estimated at NIS 287,000 monthly),<sup>633</sup> the total monthly aid for these families is estimated at NIS 2,763,615 monthly (NIS 2,476,615 as average monthly cash aid plus 287,000 as monthly health aid), and NIS 33,163,380 annually. This totals some US\$ 8,290,845 annual cash and health aid for these families. Together with the annual aid provided to the handicapped, divorced, widows, and the aged (US\$ 36,879,300 annually as mentioned above), there will be approximately US\$ 45,170,145 as the average annual expenditure of the ministry on the needy families, aged, handicapped, divorce, widow, families of martyrs, injuries, detainees, and others.

The care and services provided to these social groups are not confined to cash, health, and education services, but extend to include - in some cases - housing and consultation services. For example, out of the 5,827 cases of aged persons, there were 36 cases hosted by a ministry-run house with a monthly cost of NIS 500 per case. In addition to this house, there are 21 institutes operated by the ministry that offer consultation services for aged persons. Similar services are provided to juvenile, within the context of the ministry's protective and rehabilitation programs. At least 80 juvenile benefit from these programs monthly, with average monthly aid of NIS 700/case. The handicapped and blind children enjoy also consultation services alongside health and cash aid. The ministry set up seven schools and institutes for supporting the handicapped and blind children.

These schools and institutes are: the Casablanca Handicapped Institute in the West Bank city of Salfeet (includes 58 children), the A'lai'a Blind School in Bethlehem (includes 40), the Hebron Handicapped Institute (includes 65), the Gaza-Blind Institute (includes 80), the Gaza Handicapped Center (120), the Dier El-Balah Blind Institute (includes 28), and Khan-Younis Blind institute (90). Alongside the health and consultation aid, are feeding services supplied by the ministry with a monthly cost of NIS 350/case.<sup>634</sup> This implies NIS 168,350 as a total monthly feeding cost, and NIS 2,020,200 (US\$ 505,050) as a total annual feeding cost.

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<sup>633</sup> Ibid., P.108.

<sup>634</sup> Ibid., Pp.104-105.



Of vital importance were the ministry's programs of rehabilitating the ex-detainees. These programs were first begun in July 1995 when the European Union, Switzerland, and Italy, disbursed US\$ 18 million for the support of ex-detainees.<sup>635</sup> The assistance of these countries enabled the ministry to implement these programs. During the period of 1995-98, approximately 24,418 ex-detainees benefited from these programs. The services provided to these ex-detainees varied and ranged between the coverage of their health insurance fees, vocational training, partial coverage of their university education fees, loans, jobs creation, and others. For example, approximately 12,688 ex-detainees enjoyed health insurance free of charge for one year. Other 7,000 received vocational training, and 50% of the university education fees were covered for 1,800 ex-detainees. In addition, loans (ranging between US\$ 2,500-5,000) were granted to 1,400, and jobs were created for 1,500 ex-detainees.<sup>636</sup>

The above-mentioned quantitative survey of ministry services and the various social groups benefiting from these services does not imply a ministry success in reaching all the needy social groups. In 1998, for instance, 20.5% of the Palestinian families were categorized as needy families.<sup>637</sup> Bearing in mind the size of Palestinian population estimated at 2,958,579 in the same year,<sup>638</sup> and the average size of the Palestinian family estimated at 6.4 (as mentioned above), then it is possible to conclude that there were about 462,277 families in the WBGS in 1998. Of this, there were 94,766 (20.5%) needy families. Providing the number of families enjoying constant monthly aids from the ministry in 1998 (estimated at 36,655 families including families of martyrs, detainees, the injured, handicapped, aged, widows, divorcees, and so forth, see above), it is safe to claim that only 38.6% of the needy families were covered by the ministry's services up to 1998. The coverage of these families by the ministry services did not mean their enjoyment of proper living standard. As we have seen above, the average monthly aid (excluding the health and education aids which covered directly by the ministry in coordination with the concerned ministries) of the families of martyrs, the injured, and detainees is estimated at NIS 344 (US\$ 86), while the average monthly aid (excluding health and

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<sup>635</sup> Ibid, P.109.

<sup>636</sup> Ibid.

<sup>637</sup> *Al-Ayyam* on 21 August 2000.

<sup>638</sup> PCBS. *Statistical Abstract*, op.cit., P.189.

education aids) of the handicapped, the aged, widows, divorcees, and others, is estimated at NIS 260 (US \$ 65).

This monthly aid covered only 10.3% of the total monthly expenditure of families of martyrs, the injured, and detainees. Also, it covered only 7.8% of the total monthly expenditure of families of handicapped, widows, and divorcees, in 1998.<sup>639</sup> In addition to the fact that they lacked the minimum level of income necessary to live properly, these families - like other Palestinian families - suffered from the conditions owing to the high rate of housing density. For example, there was only one room available to each two persons in comparison with one room to each 0.9 person in Israel in 1999.<sup>640</sup>

The housing conditions (in term of housing density) of the Palestinian families witnessed little improvement in 2000, as one room was made available to each 1.9 persons. Despite this, the housing conditions in terms of the availability of living facilities remained unimproved. In 2000, at least 1.2% of the Palestinian families remained without a cooking stove, 1.4% lacked a kitchen, 2.3% lacked a bathroom, 7.2% lacked a refrigerator, 10.2% lacked a connection to the public water network, 15.5% lacked a washing machine, 31.3% lacked a solar boiler 47.2% lacked a connection to the public sewage network, and 97.2% lacked central heating.<sup>641</sup>

These figures are clear indicators concerning the ministry's failure to promote an effective social security system. It appears that two factors contributed to this failure: (1) the irregularity and inadequacy of the ministry's budget, and (2) the ministry's under-qualified staff. The irregularity and inadequacy of the ministry's budget was clear during the period of 1995-2000. In 1995, for instance, the ministry of finance allocated some US\$ 34.89 million to the ministry of social affairs. In the period of 1996-1998 this sum increased to US\$ 42.96 millions (in 1996), and to US\$ 47.72 million (in 1997), and to US\$ 52.12 million (in 1998). But in 1999, it dropped to US\$ 50.67 million, and in 2000 it further dropped to US\$ 44.14 million.<sup>642</sup>

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<sup>639</sup> The average monthly expenditure of the Palestinian family is estimated at 579 Jordanian Dinars (approximately US\$ 830) in 1998. See *Al-Ayyam* on 24 July 1998.

<sup>640</sup> PCBS. *Statistical Abstract*, op.cit., Pp. 177,273.

<sup>641</sup> Ibid., Pp.271-273.

<sup>642</sup> Source: Ministry of Finance, Gaza.

This irregularity of the ministry's budget promoted financial uncertainty, and therefore, made it difficult for the ministry to develop clearly defined plans. In addition to this problem was the inadequacy of the ministry's budget in a manner that left the ministry unable to cover its annual expenditure. As the above-mentioned figures tell, the average annual allocation of the ministry of finance to the ministry of social affairs, over the period of 1995-2000, was US\$ 45.4 million.

Bearing in mind the ministry of social affairs' annual expenditure on the needy families, families of martyrs, the injured, and detainees, and others (US\$ 45,170,145 as mentioned above), in addition to its annual expenditure on feeding the handicapped children hosted by its various handicapped institutes and schools (US\$ 505,050), then we would have some US\$ 45.67 million as the ministry's annual expenditure. The ministry expenditure (excluding its expenditure on staff salaries and the operating costs) on these social groups, therefore, exceeds what is allocated to it annually by some US\$ 270,000 (US\$ 45.7 million-45.40 million)

The ministry deficit increases when its expenditure on staff salaries is taken into account. In fact we lack any data relating to the value of the ministry expenditure on staff salaries. However, some statistics allow for some admittedly imperfect extrapolation. In 1997, for example, the average monthly salary of Palestinian civil servants is estimated at NIS 1,440 (US \$ 360).<sup>643</sup> Bearing in mind the number of the ministry's civil servants (1,438 as mentioned before), then it is possible to estimate that the ministry spends approximately US\$ 517,680 monthly, and US\$ 6,212,160 annually on staff salaries. This would push its annual financial deficit to some US\$ 6.5 million (on the plausible assumption that average salaries remain constant across ministries), not to mention the operating cost.

A significant portion of the ministry expenditure on staff salaries was irrational. Mahmmoud Muteer, acting deputy-minister of social affairs, confirmed to me that the ministry-since its foundation in 1994-had recruited approximately 170 employees, under the label of job creation. The majority of these employees, Muteer states, were

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<sup>643</sup> See Majed Sbieh & Ma'moun Abu Alia. *Characteristics of the Empolyees in Public & Private Sectors*. Ramallah/Palestine: PCBS, August 2002, P.44.

ex-detainees recruited in the ministry through presidential decrees.<sup>644</sup> According to above-mentioned figures these “civil servants” cost the ministry US \$ 61,200 monthly and US\$ 734,400 annually. The ministry crisis is exacerbated when it is known that no less than fifteen of these ex-detainees held senior management posts in the ministry (e.g. director-generals of a given directorate or department).<sup>645</sup>

This fact has negative ramifications on the ministry’s work in two respects: (1) the involvement of these ex-detainees in formulating the ministry’s policy despite their lacking of the professional skills necessary for that (since they are revolutionaries rather than state builders. Most of these ex-detainees had ended education during the period of their detention, and thereby, failed to accumulate any professional skills); and (2) due to their lack of professional skills, these 15 ex-detainees, alongside those ex-detainees who do not held senior posts, would have little loyalty to their office. Together with their feeling of alienation accumulated over long years of hardship under detention, these ex-detainees would deal with their work in the ministry as a source of income without feeling any commitment towards their daily responsibilities.

As far as the remaining staff of the ministry are concerned, none of them was recruited through a newspaper advertisement specifying the job description and the specifications of the vacancy. It is up to the candidate to visit the ministry and ask for a job. Usually, the ministry receives the applications of those seeking employment, and keeps them until the occasion for a job arises. In each case, the ministry calls the best-qualified candidates and interviews them, before selecting one or two depending on the number of vacancies.

Interestingly enough, the ministry was highly influenced by the candidate’s living place when it makes a hiring decision. For example, if the ministry seeks an employee to fill a vacancy in its office in Ramallah, then it tends to choose among those applicants living in Ramallah, even if there is a more qualified applicant in Nablus. The reason for this is financial. In choosing the candidate from Ramallah not Nablus, the ministry would not have to cover the cost of his transportation, and therefore,

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<sup>644</sup> Interview on 27 September 2004, Gaza: Ministry of Social Affairs.

<sup>645</sup> Ibid.

would release itself from some financial burden on its limited budget. In the words of Muteer:

“We have a notable increase in the labor force, and at the same time, a notable increase in the needy families’ number. We have to absorb as much of the labour force as we can...but at the same time we have to meet the increasing demand for the ministry’s services. That is why we have to plan our limited budget so that we cover the demand for the ministry services whilst simultaneously contributing to the employment of the increasing labour force.”<sup>646</sup>

Though this would enable the ministry to save part of its budget for the service of other purposes, it left it in part bereft of the qualified personnel necessary to carry out its daily responsibilities, and thus promoted its failure to cover all the needy families with its services.

### ***The Palestinian Bureaucracy: Features and Characteristics***

On 26 February 1998, the Palestinian daily of *Al-Risalah* published some figures relating to the number of PA civil servants and their annual salaries. According to such figures, the number of PA civil servants and security personnel in 1996 was estimated at 72,000 (39,000 civil servants & 33,000 security personnel). At least US\$ 481.24 million (approximately 51.3% of PA’s 1996 budget) was spent on these salaries (61.7% of the was spent on civil servants and 38.3% on security personnel).

Many of these civil servants - *Al Risalah* continued - were recruited without clearly defined job descriptions and task specifications. This led to a situation where these civil servants are on the PA’s payroll, but at the same time do nothing in their office- if they have any in their ministry. As a Palestinian civil servant declared:

“I have a colleague who works in the same department as mine. I see him very seldom in the department, twice monthly perhaps. When he comes to office he stays for a while, only to drink tea and to ask about the latest developments with relation to work. He might have another job in another place”.<sup>647</sup>

Mostly, these “civil servants” are recruited through informal channels. These channels are available only to those who have relatives or other connections to personnel

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<sup>646</sup> Ibid.

<sup>647</sup> Quoted in *Al-Risalah* on 26 February 1998.

occupying senior posts in the civil and security apparatus. As demonstrated in chapter III, these senior civil and security personnel derived their power mainly from their connection to Arafat, who punishes/rewards them according to their readiness to cooperate. In the event of their cooperation, Arafat exhibited generosity, and privileged them in various ways, which included the recruitment of their relatives and those with whom they have connections in various PA civil and security posts.

This culture of favoritism which permeates the PA has facilitated, in turn, a culture of systematic inefficiency in many aspects of the authority's work. The following figures might support our view. In 1997, at least 60% of the WBGS thought that favoritism existed through the various PA civil departments, while 63% were forced to ask for the help of some PA officials to facilitate their contact with a given ministry or public institution.<sup>648</sup>

Due to this culture, the number of PA civil and security personnel rose steadily to reach nearly 98,000 personnel in 2000.<sup>649</sup> Mohammad Abu Jarad, the deputy-minister of finance, asserted that thousands of these personnel were not recruited through institutionalized recruitment methods according to clearly defined job descriptions and task specifications. He estimated their number to be 20,000 by 1997.<sup>650</sup> According to Abu Jarad, the PA sought to create jobs for these personnel after they lost their jobs inside Israel (due to the problem of closures), or failed to find a job in the private sector. In this sense, Abu Jarad suggests, the PA sought to help its people, and to promote their welfare.<sup>651</sup>

Though Abu Jarad's words might reveal part of the truth, the remaining hidden part of such truth - admitted by Abu Jarad himself - is that the PA was from the very beginning preoccupied the pressure exerted by the opponents of the Oslo agreements (mainly Hamas and Islamic Jihad). As a result, it tended to spend a large portion of its revenue on recruiting support for its cause (the peace process with Israel). Through

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<sup>648</sup> Ibid.

<sup>649</sup> Concluded from Nazieh Arman & Wafiq-Al-Natour. *The Educational System and Labor Market Demand*. Ramallah/Palestine: PCBC, In-depth Analysis Study Series (01), May 2002, Pp.23-24

<sup>650</sup> Interview. Gaza: Ministry of Finance, 21 October 2004.

<sup>651</sup> Ibid.

this spending -referred to by Abu Jarad as “politicized spending”<sup>652</sup> - the PA succeeded in buying the allegiance of thousands of people after it recruited them in its civil and security apparatus.<sup>653</sup>

Due to this form of recruitment, it may be argued, a significant portion of PA revenue was wasted in an irrational way. Nevertheless, PA spending on the salaries of this staff was not the only form of PA irrational payoffs. Alongside it was the huge amount of money spent on renting governmental buildings. In 1997, for instance, the ministry of finance paid more than US\$ 138 million to cover the cost of renting some PA premises for a six-month period. The sum formed up to 12.5% of the total sum needed for the construction of governmental complexes for all ministries.<sup>654</sup> Parallel to this was the high spending on other operating costs like postage, phones, business travel, utilities, printing, and so forth.<sup>655</sup> Because of this cost inefficient spending, important ministries like health, and education were denied the adequate funds for their operation, and thereby, were unable to supply people with proper services - as demonstrated above.

The administrative anarchy of the PA’s bureaucracy, and the subsequent inefficient high spending, was mainly due to the absence of the political will needed for enacting the civil service law. As we have mentioned before the law remained not enacted up until the outbreak of *Al-Aqsa intifada* in September 2000. The PA’s failure to enact the law left many of its ministries lacking a clearly defined organizational structure that facilitated demarcation of roles. Also, it left these ministries lacking clearly defined job descriptions and task specifications, and a transparent mechanism for promotion. Consequently, thousands of PA civil servants suffered unjust work conditions, while thousands of others (backed by the PA) continued to enjoy extra-privileges.

Continuously, the PA justifies its inaction on implementing the civil service law by the lack of adequate financial resources. This justification is unreasonable, if considered in light of the following figures with relation to the PA’s annual revenue.

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<sup>652</sup> Ibid.

<sup>653</sup> Ibid.

<sup>654</sup> *Al-Risalah* On 27 January 1998.

<sup>655</sup> *Palestine Report*. Vol. 3, No. 1, June 13, 1997 & Vol. 6, no.8, August 11, 1999.

According to Abu Jarad, the deputy-minister of finance, the PA revenue from income tax, VAT, customs, and transfer of income taxes deducted by Israel from Palestinian laborers employed inside Israeli territories, is estimated at US\$ 95 million monthly in the period of 1994-September 2000.<sup>656</sup> This implies US\$ 1.140 billion annually for the same period. Adding this sum to donors' annual disbursement whose average is estimated at US\$ 500 million in the first decade of PA existence (1994-2004),<sup>657</sup> then we will have some US\$ 1.640 billion annually. Adding this sum also to the revenue of the officially sanctioned monopolies such as the Palestinian Company for Trade Services (Cement Company), the Palestinian Development and Investment Company, the Petroleum General Commission, and Tobacco Commission,<sup>658</sup> (the annual revenue from whom is estimated at some US \$ 300 million annually),<sup>659</sup> then we will have approximately **US\$ 1.940 billion as the PA's annual revenue** in the period of 1994-2000.

This sum is not only adequate to cover the financial implications of the law, but also to supply Palestinians with high quality services, in particular health, social, and education. As we have discussed before, the cost of implementing the law for teachers and fourth class civil servants is estimated at US\$ 7.5 million monthly (See P. 230). Assuming that the cost of implementing the law at the second and third class is similar or higher (since these servants receive higher salaries than teachers and fourth class civil servants), then the cost of implementing the law for all PA civil servants will be between US\$ 15-20 million monthly, and US\$ 180-240 million annually.<sup>660</sup> This sum forms between 9.2-12.3% of PA annual revenue in the period of 1994-2000.

Consequently, the financial justification of the non-implementation of the law should be ruled out. The only reason - in my view - for not implementing the law was political. As discussed in chapter III (Pp.156-169) the sustainability of the

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<sup>656</sup> Interview. Gaza: Ministry of Finance, 21 October 2004.

<sup>657</sup> *Herald Tribune* on 17 December 2004.

<sup>658</sup> As discussed in chapter III, these monopolies operate outside the regular budget of PA, though they are owned by the PA. For more details over these monopolies see chapter III.

<sup>659</sup> Ehrenfeld. "*Where Does the Money Go*, op.cit.

<sup>660</sup> The number US\$ 15 million was obtained by adding the cost of implementing the law for teachers and fourth class civil servants (US\$ 7.5 million monthly) to the cost of implementing the law for third and second class (US\$ 7.5 million monthly) assuming both costs are equal. If the cost of implementing the law on the second and third class is higher, it is not expected that such costs will exceed US \$ 10 million monthly.



“neopatrimonial” system is reliant on the absence of any prescribed legal norms that might restrain the patron’s action, and weaken his capacity for using public funding and institutions as an instrument to gain peoples’ loyalty. The civil service law with its formal mechanism of recruitment and promotion emerges at odds with the patron’s wishes since it weakens his capacity of using the bureaucracy as an instrument to gain peoples’ loyalty. The patron, therefore, promotes instead an administrative anarchy where the misuse of office and public funds are tolerated.

It is this administrative anarchy which promoted irrational appointments and spending- as we have seen above. It is also the one which prompted top PA officials to misuse or mismanage almost 40% of the PA’s 1996 budget, and to use it for their own benefits, according to Jarrar Kidwa, head of the General Monitoring Commission (GMC).<sup>661</sup> More importantly, this administrative anarchy was the one that encouraged some PA officials to risk the health of the public, by supplying them with approximately 5,000 tons of expired flour.

The issue of the expired flour dates back to the summer of 1996 when the PA imported 5000 tons of flour from Italy’s black markets at a very high price. The PA decision to buy flour from Italy’s black markets was determined, according to Abdel Aziz Shaheen, former minister of supply, after Israel - the chief supplier of flour to the WBGS since 1967 - stopped supplying Palestinians with flour due to an international flour crisis in that year.<sup>662</sup>

The PA, therefore, was forced to buy the flour at high prices in order to meet the local demand for flour. However, Israel quickly re-supplied itself with high quality flour, and, at the same time, relatively cheap flour to the WBGS following the end of the crisis, months later. The ministry of supply, accordingly, preferred to stop supplying the imported flour in the markets in order to avoid loss. This meant that the ministry should store the flour until the occasion to sell it arose. However, the ministry’s lack

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<sup>661</sup> The names of some of these officials were mentioned by the GMC report of 1997. Among these officials were Nabil Sha’ath, Minister of Planning and International Cooperation, and acting Foreign Minister, Jamil El Tarafi, Minister of Civil Affairs, and Ali El Qawasmi, Minister of Transportation. See *Jerusalem Post* on 25 May, 1997, & *Palestine Report* Vol.3, no.8, August 1, 1997

<sup>662</sup> Interview, 28 October 2004.

of proper storage places forced it to turn to the municipality of Nablus and to use the municipality headquarters as storage place.<sup>663</sup>

The municipality of Nablus headquarters was used to store the 3000 tons assigned to the West Bank, out of the total of 5000 tons. Nevertheless, the fact that the municipality was not designed as a flour storage place caused the 3000 tons to be spoiled. Despite this, these tons, together with the remaining 2000 tons which were assigned to Gaza, were sold to merchants after having passed their expiry date. Moreover, they were sold to merchants without following the formal bidding procedure. The picture looks worse when it is known that the ministry, after selling the flour to merchants, shut down the PA territories preventing Israeli flour from gaining access. In so doing, the ministry failed to implement free market principles, and enabled these merchants to sell the expired flour to citizens. An investigation and subsequent report, conducted and written by a PLC committee supported this claim in 1997.<sup>664</sup>

The negative ramifications of this administrative anarchy in the Palestinian bureaucracy were not only confined to misuse of public funds and offices, but extended to include the promotion of conflicting power centres in some ministries. The affair of “forged citrus certificates” of the ministry of agriculture was a clear manifestation of this. In 1997 the most senior posts in the ministry of agriculture (the minister and the deputy minister posts) were occupied by Abdel El Jawad Saleh (the minister), and Azzam Tbeileh (the deputy-minister). While the former is considered to be one of the most prominent critics of Arafat, the later was an Arafat appointee and loyalist.

In October 1997, Saleh accused Tbeileh of being involved in producing false licences for Israeli citrus products so that they can market Palestinian products in Jordan’s markets. Saleh considered this act as one of corruption, and harmful to Palestinian agriculture. Tbeileh denied the charge and attacked Saleh by accusing him of paralyzing the ministry’s work by concentrating all the authority in his hands and refusing to recognize the deputy-minister post. Tbeileh publicly admitted this tense

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<sup>663</sup> Ibid.

<sup>664</sup> See *Palestine Report*. Vol.2, No.33, January 24, 1997 & see also *Al Quds* on 27 March 1997.

relationship between himself and the minister and complained that the minister refused to coordinate with him in respect of the ministry's operations.<sup>665</sup>

Consequently, the values which the Palestinian bureaucracy protected were the interests of top officials and politicians at the expense of public interest and welfare. Because of this normative foundation of the Palestinian bureaucracy, Palestinians were denied proper and adequate services (including health, education, social, and so forth). Palestinians were even denied the right to enjoy the material donations offered to them by other countries, like the Olive Oil sent by Greece in 2000. This oil, which was suppose to be distributed to the public free of charge, was sold to merchants by the ministry of agriculture, before being sold to the public. The ministry of agriculture justified this action by invoking the costs of transportation and storage as reasons that forced it to sell it to merchants.<sup>666</sup>

The ministry's lack of adequate funding resulted mainly from the PA's policy of overstaffing its ministries, and the resultant high expenditure on staff salaries. This fact grouped the PA along with other oft criticized systems in place in developing countries where the government is:

"...a major employer...especially for the relatively small professional and educated segments of the society. It is difficult for any government to dismiss existing workers, but it also may perceive the need to hire additional, politically loyal personnel. It may make sense to dismiss existing employees, however, if they have been compromised by their participation in a regime with serious human rights abuses."<sup>667</sup>

### ***The Local Government System under the PA: Toward a Client Model of Local Authority***

So far we have discussed the PA bureaucratic system that is responsible for supplying social services to Palestinians, and concluded the following features with relation to it:

- Overstaffed in the quantitative sense, whilst simultaneously understaffed in the qualitative sense..

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<sup>665</sup> See *Al-Hayat Al Jadeeda* on 20 October & *Al Ayyam* on 21 October 1997. See also *Palestine Report*. Vol. 3, no.20, October 24, 1997.

<sup>666</sup> *Al-Risalah* on 8 June 2000.

<sup>667</sup> Peters. *The Future of Governing*, op.cit., Pp. 9-10.

- Related to the above mentioned factor is the high spending on staff salaries, and the resultant deficit of this system budget, and the negative ramifications of this deficit on the right of Palestinians to enjoy proper services.
- More importantly was the system's lack of a legal rules and regulations governing its operation and work. This promoted administrative anarchy, and stimulated aspects of misuse of office and public funds.

The local government system is responsible for supplying the main utilities (water & electricity supply, refuse or waste collection, roads paving, and so on). As mentioned in chapter II (Pp. 47-51), the first signs of this system started to appear in the scene in the second half of 19<sup>th</sup> century, when the Ottoman ruler-within the context of *Tanzimat* (reform)-enacted two laws in 1867 (*Vilayet law*), and in 1876 to introduce municipal councils in 22 towns and large villages. Though these councils were said to be elected, the voting qualifications were so demanding, and only the *ayan* (well-to-do and socially prominent families) could have access to these councils.

These families are the ones which historically cooperated with the Ottoman rulers. In this sense, the Ottoman ruler preferred them over any segment of society, and consequently, enabled them to control these councils when it stipulated a narrow electoral base. The Ottoman ruler, thus, helped these families to reproduce their power and influence over the population (See chapter II, Pp. 52-53).

Under the British Mandate (1919-1948), we witnessed the same trend. In other words, the British mandate relied also upon these families to rule the population. In 1927, thus, they introduced municipal elections with a narrow electoral base so that only these families can vote and nominate themselves to these councils. The British rulers had reasserted the narrow electoral base in its 1934 municipal law, whilst simultaneously conferring sweeping powers on the British high commissioner (see chapter II).

Though British rule had enacted two ordinances to promote local councils at the village level (in 1921, and in 1941), some cultural and political factors impeded these councils from being effective tools of political participation. These councils, at the

end of the day, were dominated by the village *Sheikhs* and *mukhtars* under full British control and supervision (see chapter II).

After the creation of the state of Israel in 1948, and the dispersion of Palestinian society through the Arab world and other countries, the Gaza Strip and West Bank (the only remaining Arab territories after 1948) came under Egyptian military rule and Jordanian civil rule respectively. While Egyptian rule tended to appoint local councils (at both village and town level) among the loyal *ayan* of Gaza Strip, Jordan promulgated the 1955 municipal law. The law revived several restrictions over the right to vote, and granted the *ayan* more chances than others to be elected to these councils. At the same time, the law conferred sweeping powers on the central authority in Amman, and therefore, enabled it to use these councils as instrument to assert its rule in the West Bank, and to reproduce the power of the loyal *ayan* (see chapter II).

When Israel occupied the WBGS in 1967, the Labour-led Israeli government, parallel to its policy of “co-existence”, introduced municipal elections based on 1955 municipal law in 1972. As we have discussed in chapter II (Pp. 80-83), the Labour government sought through these elections to promote pliable indigenous leadership as against PLO leadership. The Israeli goal of these elections was realized when the pro-Hashemite elements dominated these councils at the expense of the pro-PLO elements who boycotted the elections of 1972.

But in 1976, the PLO took lessons from the 1972 elections, and consequently, encouraged its supporters to take part in the municipal elections of that year. In these elections, Israel extended the voter franchise to property-less females and young males. This fact, coupled with the socio-economic transformation and regional political developments which the Palestinian territories witnessed in 1970s (for these transformations and developments see chapter II, Pp. 82-88), enabled the pro-PLO elements to rise to office (see chapter II, Pp. 88-92). Nevertheless, these elements remained derived from the same socioeconomic background of the pro-Hashemite elements. In other words, they were among the well-to-do and socially prominent families (*ayan*) as we have mentioned in chapter II.

With the rise of the Likud-Party to office in 1977, Israel's policy toward Palestinian autonomous institutions was radicalized, and many councilors and mayors were dismissed from their office. Since then until up to 1994 (the year of the PA arrival in the WBGS) the mayors and councilors were appointed ones (see chapter II).

Consequently, when the PA assumed responsibilities in the WBGS in 1994, it had to deal with appointed local government institutions dominated by pliable socially prominent families. Hence, the PA was asked by Palestinians to revise this situation, and to promote the prerequisites for having an effective and widely representative system of local government. Among these prerequisites were legal ones; the PA was asked to reconstitute the laws and regulations which historically governed the local government system. However, the PA - out of fear of possible legal anarchy - made no quick fundamental changes in the legal *status quo* upon its arrival. On 20 May 1994, accordingly, Arafat - in his capacity as PA president - issued his decision no. 1 in which he declared all the laws and regulations of the pre-Israeli occupation era to be in force.<sup>668</sup>

The decision implied the continued use of the 1934 municipal law as far as the Gaza Strip municipalities are concerned, and the 1955 municipal law as far the West Bank municipalities are concerned. As we have mentioned in chapter II, these two laws confer sweeping powers on the ruler, including the appointment of mayors and councilors. Having enjoyed this power, Arafat made the first appointment for a municipal council in the post-Oslo era, in particular on 26 July 1994. This appointment was for the Gaza city municipal council. Interestingly enough, at least eight (including the mayor Uwn El- Shawa) out of the ten councilors of the municipality were among the *ayan*.<sup>669</sup>

On 24 September 1994, Arafat vested his authorities over the local government institutions into the newly emerging ministry of local government. This happened when he ratified law no. 1 for the year 1994. The law brought all the issues related to local government institutions under the ministry's control and responsibilities.<sup>670</sup>

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<sup>668</sup> See *Al Waqaea'*, op.cit., No. 1, 1st year., 20/11/1994.

<sup>669</sup> Decision No. 4 for 1994 in Ibid. No. 1, 1st year, 20/11/1994.

<sup>670</sup> Ibid, No. 2, 2ed year, 8/1/1995.

Therefore, the ministry became the official body responsible on any issue related to local government institutions, including the initiation of regulations and laws governing these institutions. Nevertheless, the ministry-due to Arafat decision no. 1 which kept all laws and regulations of the pre-occupation era in force- lacked the legal right to advance any legislation with relation to local government institutions other than the 1934 municipal law for the Gaza Strip, and the 1955 municipal law for the West Bank.

To deal with this dilemma, Arafat ratified Law no. 5 concerning the transfer of powers and authorities of the former regimes to the PA in 1995. Article one of the law reads; “all the powers, and authorities stated in the legislation, decrees, and ordinances that were in force before the arrival of PA on 19 May 1994, are vested in the PA”.<sup>671</sup> The ratification of this law implied the empowerment of the ministry of local government with the legal right to initiate new legislation and regulations relating to local government institutions. This fact revived great hopes among Palestinians, and gave rise to the impression that the appointment policy of the municipal councils will be revised and that fair and transparent municipal elections would be introduced, so that a wide-segment of society other than the *ayan* would have access to these institutions after such access had been blocked for decades.

In April 1996, the ministry of local government declared its decision to organize municipal elections in more than 450 towns and large villages by the end of 1996.<sup>672</sup> The elections were promised to be held according to a new municipal law. The law – which was supposed to be announced afterwards - would be applied in both the West Bank and the Gaza Strip, and therefore, would unify the regulations which govern the local government institutions, after these institutions were subjected to various regulations since the inception of the state of Israel in 1948.

To pave the way for these elections, the ministry of local government divided the WBGS into sixteen governorates (eleven in the West Bank and five in the Gaza Strip). The governorates of West Bank are as follows: Jerusalem, Jericho, Bethlehem,

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<sup>671</sup> Translated from Ibid, No. 4, 2nd ed. year, 6/5/1995.

<sup>672</sup> *Al Nihar* on 19 April 1996.

Nablus, Ramallah, Hebron, Tulkarm, Qalqilya, Slifeet, Tubas, Jenin.<sup>673</sup> The Gaza Strip governorates are: Jabalia, Gaza, Dier El Balah, Khan Younis, and Rafah. Each governorate has at least one municipal council. Furthermore, fourteen new local councils and committees were created in the Gaza Strip,<sup>674</sup> and twenty-seven new local committees were founded in the West Bank. In addition, a new municipality was evolved in the West Bank to assume responsibilities over seven villages.<sup>675</sup>

The governor, who is appointed by and accountable to the minister of interior (in our case Arafat who held the interior portfolio in the period of 1994-2000), enjoyed no powers or authorities over the local committees or the municipal council of his governorate. However, Arafat, who appointed the minister of local government, could do so through the minister himself. *De facto*, therefore, the local councils and committees were indirectly controlled by the ministry of interior, or Arafat.

In a clear manifestation of this fact, Arafat appointed three municipal councils in the Gaza Strip governorates of Rafah, Khan Younis, and Jabalia on 19 August 1996. As it was expected, most of these councilors were either among the *ayan*, affiliated with Fatah, or have relatives occupying top posts in the PA civil and security apparatus. Take for example the mayor and his deputy of Khan Younis. The mayor was Usamah Al Farah (from among the *ayan*). His deputy was Salah Abu Shamalah (relative of Majd Abu Shamalah, a colonel in the Gaza-Strip preventive security forces).

The same approach was applied to the councilors. Three of them were among the *ayan* (Usamah Barbakh, Nasser El Masri, Majd El Astal). The remaining eight were among the *ayan*, but also have relatives occupying top posts in PA civil and security apparatus. They included Abdelhamid Sha'at (father of the former assistant-deputy minister of Planning and International Cooperation and the present assistant-deputy minister of transportation Ali Sha'at), and Ahmad Dahaln (a relative of Mohammad Dahaln, head of the Gaza Strip preventive security forces).<sup>676</sup>

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<sup>673</sup> At the beginning the West Bank was divided into nine governorates and two districts. But in November 1999, the PLC decided to abolish the districts and to assign to the West Bank eleven governorates. See *Al Ayyam* on 30 November 1999.

<sup>674</sup> *Ibid* & *Al Nihar* on 20 June 1996.

<sup>675</sup> *Al Quds* on 11 October 1996.

<sup>676</sup> *Ibid*, *Al Nihar*, & *Al Ayyam* on 20 August 1996.



We can also notice the same trend in the Rafah municipal council. Sa'id Zu'rub (among the *ayan*) was the mayor, while Mohammad El Dibari (close to Fatah) was the deputy. Most of the councilors were close to Fatah: Izzat Abu El Khier, Ahmad El Qadi, Suliman Abu Samhadanah, and Imad Sha'at.<sup>677</sup>

Furthermore, the majority of the newly created fourteen local councils and committees were appointed. On 2 November 1996, for instance, Arafat appointed four local committees for Bani Suhlia, Abasan El Kabira, Abasan El-Saghira, and Kheza'a.<sup>678</sup> Interestingly enough, the appointment policy pursued by Arafat was not confined to the Gaza Strip, but extended to the West Bank which historically enjoyed elected councilors (at least until up to 1977). On 7 September 1996, two new municipal councils were appointed in the towns of Bitunia, and Dier Daboon.<sup>679</sup>

### **The Local Government System: Electoral Perspective**

The appointment policy of Arafat raised great deal of concern among Palestinians over the negative ramifications of this policy on the possibility of having widely representative local government institutions. In December 1996, Uwn El Shawa, mayor of Gaza, considered this policy very harmful to Palestinians, and a clear indication of the local government ministry's reluctance to organize local elections.<sup>680</sup> Nevertheless, the ministry considered this policy to be a very necessary one providing the involvement of many of the dismissed municipal and rural councils in corruption,<sup>681</sup> and the lack-until up to that time-of a Palestinian legal procedure governing local elections.

The ministry, therefore, ruled out these appointments as an attempt from its side to deny Palestinians the right to decide on their civil issues, and re-scheduled the local elections for June 1997. The ministry justified the new elections date by the failure of

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<sup>677</sup> Ibid.

<sup>678</sup> *Al Ayyam & Al Quds* on 3 November 1996.

<sup>679</sup> *Al Nihar & Al Hayyat Al Jadeeda* on 8 September 1996.

<sup>680</sup> *Al Hayat Al Jadeed* on 26 December 1996.

<sup>681</sup> In May 1996, the ministry of local government discovered the involvement of three municipal councils, and eight rural councils in misuse of office and public funds. According to the ministry, at least US\$ 1 million was wasted by these local government institutions since May 1994 until up to that time. See *Al Hayat Al Jadeeda* on 25 September, and *Al Ayyam* on 17 & *Al Bilad* on 18 & *Al Quds* on 21 October, 1996.

the PLC to approve a law for local council elections up to that time. Accordingly, the ministry states, it was difficult to organize the local elections on the scheduled due date<sup>682</sup> (the end of 1996 as mentioned before).

On 16 December 1996, Arafat ratified the local council elections law after the PLC approved it in the legal readings.<sup>683</sup> The law set up the voting and nomination system of the local council elections. Article 3 of the law empowered the minister of local government with the right to call for free and direct elections for the mayors, and councilors. The law provides that the mayors and councilors (who supposedly elect the mayor deputy) are to be elected for a period not exceeding four years (articles 51, 53). Article 4 enabled the minister of local government to postpone the local elections for a period not exceeds two weeks if this was in the public interest and for transparent elections. Article 8 expanded the electoral base of these councils when it enabled every Palestinian aged 18 or over and living in the municipality's jurisdiction to vote in the municipal elections even if he or she did not enjoy tax-paying qualifications.

As far as those who wish to run the elections are concerned, article 24 enabled every Palestinian aged 30 or over and with tax-paying qualifications to run for the mayoralty, and every Palestinian aged 25 or over with tax-paying qualifications to run for the council's membership. Those who run for the mayoralty should pay approximately Jordanian Dinar 500 (approximately US\$ 714) as a refundable sum upon their winning. In the meanwhile those who run for the council's membership should pay approximately Jordanian Dinar 100 (approximately US\$ 140) as a refundable sum upon their winning (article 22).

The law also sets down the procedure to be followed when there was a vacancy in the local council. Article 55 provides for new elections for the mayoralty in the case of the mayor's departure or resignation. The election is to be public and direct, and held within one month from the date of the mayor's departure or resignation. During this month, the deputy takes over the mayoralty. In case of a councillor's departure or resignation, the one who won the highest number of votes after those who won the

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<sup>682</sup> *Al Nihar* on 16 December 1996, & *Al Ayyam* on 20 January 1997.

<sup>683</sup> The full text of the law cited in *Al Waqaea'*, op.cit, No. 16, 4th year, 30/1/1997.

council seats occupies the vacancy. But when more than half of council posts were vacant, a direct and public election is held for the all of the council seats article 56.

Though the law might be criticized for the relatively high sum it imposes (as a refundable sum) on anyone wishing to nominate himself for the mayoralty (particularly if it is taken into account the extremely deteriorated economic conditions of Palestinians), the law - it should be admitted - signified a step forward as far the electoral base of these councils are concerned. Nevertheless, the law lacked any clarification concerning the functional jurisdictions and relationship of these councils with the central authority, the ministry of local government. To remedy this deficit, Arafat ratified the law of local government institutions on 12 October 1997.<sup>684</sup>

A careful study of the law shows that it confers sweeping powers on the ministry of local government, whilst simultaneously limiting the functional jurisdiction of the local councils to a delivery of certain services. Article 2, for example, empowered the ministry with the right to lay down the overall policy of these councils. Article 4 went further and enabled the ministry to recommend the jurisdictions, formation, and structure of these councils to the cabinet's approval/disapproval. The same article enabled the ministry to approve/disapprove the abolishment, annexation, separation, and the expansion of the functional jurisdiction of any council.

The powers of the ministry over these councils extended further to include the approval of these councils' annual budgets (art. 31), the approval of the by-laws, taxes (including property tax) fees, and discounts (art. 15, B), the approval of the loans of these councils (art. 21), the approval of any cancellation, reduction or alternation in the fees and taxes imposed by these councils (art. 28), the approval of any council's deviation from the prescribed annual budget (art. 31), the approval of the selling, yielding, or mortgaging of immovable property for a period exceeding three years (art. 20).

Furthermore, the ministry enjoys powers to approve or disapprove the council's decision of dismissing any of the council members (art. 13). The powers of the

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<sup>684</sup> The full text of the law is cited in *Al Waqaea'*. op.cit, No. 20, 4th year, 29/11/1997.

ministry cover the councils' staffing, including their right to set up the procedure of recruiting, promoting, punishing, and dismissing these councils' employees (art. 19).

While the law empowers the ministry with sweeping powers and authorities over these councils, it also limits the functional jurisdictions of these councils to very few civil domains including: town and road planning, regulation the construction of buildings, supplying water and electricity, regulating public markets and stalls, regulating sanitation, collecting waste, regulating health, parks, museum, clubs, cinema, public parks, cultural and sport institutions, weights and measures, advertisements, hotels, eliminating the phenomena of beggary, supervising slaughterhouses, in addition to any other function specified by the law (art. 15, A). Though the law enables local councils to perform these functions, it denies them any right to perform functions in other important civil domains such as, for example, regional planning. This function is performed by the ministry of local government itself (article 2, Para. 2) in coordination with the concerned ministries like the ministry of Planning and International Cooperation.

### **The Local Government System: The Status Quo**

As we have seen the law of local government institutions of October 1997 institutionalized a centralized model of government, in which the central authority (ministry of local government) assumes strict control over local authorities, whilst simultaneously performing some functions located at the heart of the local authorities' work.

However, some municipalities managed to release themselves from such control, and assume autonomous actions. These municipalities could do so not because of the law's encouragement of autonomous actions, but because of their informal connection with some power centres in the central authority (i.e., the PA). For example, Uwn El Shawa, Gaza Mayor, and married from Rawia El Shawa, a PLC member and a much respected public figure, could initiate independent channels with donors, and solicited, within two years, approximately US\$ 57 million for the support of various developmental projects in Gaza city far from the ministry intervention.<sup>685</sup> Other

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<sup>685</sup> *Al Hayat Al Jadeeda* on 5 December 1997.

municipalities (weak municipalities so to speak) whose mayors and councillors do not enjoy strong political connections could not even perform the functions nominally given to them.

In June 1999, nine out of the thirteen councillors (including the mayor) of Beit Jala city of West Bank resigned from the council protesting the council's deteriorated conditions, and the council's failure to perform its basic functions like the enactment of its by-laws, and the organization of building construction in the city. They were among the national independents and not close to Fatah, the PA party. In this sense, they followed a different ideological line from the one of Fatah. In the meanwhile, the mayor, Raji Zaydan, was a loyalist of Fatah. Though the mayor expressed sympathy with the resigned councillors, and even placed part of the responsibility for the council's failure on the PA which, according to him, exhibited little readiness to cooperate with the council,<sup>686</sup> he quickly turned against them and accused them of paralyzing the council's work, and of seeking to achieve political and personal gain.<sup>687</sup> Surprisingly, the mayor's statement was made after the appointment of new nine councillors<sup>688</sup> in grave violation of article 56 of local elections law, which requires new elections for the entire council in a case where more than half of its seats become vacant.

Such developments show clearly how the ministry of local government sought to control these councils, and to assume strict supervision over them. This policy was the instrument through which the ministry emasculated the right of certain councils (mainly the non-loyal councils) to perform the functions entitled to them under the 1997's local government institutions law. Against this background, the ministry's regular postponement of the municipal elections should be examined. The absence of municipal elections would ensure the ministry would have the legal justification to block the work of certain councils under the pretext of their not being elected councils, whilst simultaneously, using the pliable appointed councils as an instrument to pass its policies. As Abdalnasser Mekky, former coordinator-general of the West Bank local elections, points out:

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<sup>686</sup> *Al Quds* on 2 June & *Al Risalah* on 3 June, & *Al-Ayyam* on 5 June 1999.

<sup>687</sup> See *Al-Ayyam* on 24 July 1999.

<sup>688</sup> *Al Istiqlal* on 2 July 1999.

“Technically, there has been no implementation of the law...because, by its terms, responsibilities and powers are granted to elected councils and chairpersons. Since such elections have not yet taken place, the assumption of responsibilities by the councils under the 1997 law of local government is not yet legally applicable.”<sup>689</sup>

In the following months the ministry made a further appointment for the mayoralty of the West Bank town of Silfeet.<sup>690</sup> In so doing, the ministry showed further determination to keep working its appointment policy, and to refrain from organizing local elections. Thereby, the ministry was not going to respond to the wishes of 63.8% of Palestinians calling for immediate local elections.<sup>691</sup>

Of course, the ministry would never admit the real reasons for its appointment policy and the frequent postponement of local elections. In September 1999, the deputy-minister of local government Husein Al Araj, justified this policy and the regular postponement of elections by the political winds of the country, in particular the failure of Israel to implement the political accords with the PA, and to redeploy from further Palestinian territories.<sup>692</sup>

Ironically, Al Araj made his statements while the PA was in actual control of the main West Bank's cities (Ramallah, Bethlehem, Nablus, Tulkarm, Qalqilya, and Jenin, Hebron), and approximately 450 West Bank's towns and villages, in addition to the largest part of the Gaza Strip. The only reason for postponing the local elections, it would appear, was the ministry's goal of controlling these councils as means to prevent the rise of PA opponents (mainly Hamas and Islamic Jihad) to office. Only the appointment policy could ensure the realization of this goal. In this sense, the ministry, backed by the PA, tended to politicize local government offices at the expense of these offices' professionalism.

One indication of this politicization was the ministry tendency to overstaff these offices. For example, the number of the Gaza municipality's employees increased from 1269 to 1500 within one year only (April 1997-April 1998). Only 180 (12%)

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<sup>689</sup> Abdunnasser Mekky. “The Electoral Dimension in Local Government in Palestine. December 7, 2004, P.3 Online <<http://www.amin.org/eng/uncat/2004/dec/dec07.htm>>

<sup>690</sup> *Al Ayyam* on 15 August 1999.

<sup>691</sup> *Al Ayyam & Al Hayat Al Jadeeda* on 28 September 1999.

<sup>692</sup> *Ibid.*

employees were university-degree holders in April 1998.<sup>693</sup> Despite this, the political connections of the Gaza city mayor enabled the municipality to deal with the resultant increase in its expenditure on staff salaries without lowering the level of its services to people. This fact can be inferred from a municipality decision exempting the detainees' families from the highest rate of electricity and water fees in March 1998.<sup>694</sup>

However, this was not the case of other municipalities like the municipality of Anabta in the West Bank. In January 1999, the employees of this municipality went on strike protesting the municipality's failure to pay their salaries at the increased rate, including those increases covering inflation, and the deterioration in the value of the New Israeli Shekle (NIS) against the US dollar.<sup>695</sup> The same applied in the municipality of Khan Younis of the Gaza Strip. In fact, the municipality was a victim of a series of unnecessary appointments (at least 300 personnel) in a manner that increased its financial deficit to about NIS 1000,000 (US\$ 250,000), and consequently, left it unable to pay the salaries of its staff as they came due.<sup>696</sup>

### **The Local Government System: A Failed scheme for Supplying Utilities**

The politicization of the local councils did not only have negative ramifications on the financial situation of these councils, but also on the ability of these councils to supply people with basic utilities. In 1996, for example, at least 80% of Khan Younis' population (estimated in that time at more than 150,000) were infected by parasitical diseases due to the city's lack of wastewater collection and disposal system.<sup>697</sup> The city of Khan Younis is only one example from many other cities and towns without a wastewater collection and disposal system. At least 40% of the main cities and towns of the WBGS did not enjoy a wastewater collection and disposal system in 1999.<sup>698</sup>

In case this system was available in a given city, few Palestinians enjoyed, or enjoy, its services. This is mainly due to the relatively high fees (estimated at NIS 1000 or

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<sup>693</sup> See *Al-Quds* on 25 April 1997, & *Al Ayyam* on 20 April 1998.

<sup>694</sup> *Al-Hayat Al-Jadeeda* on 18 March 1998.

<sup>695</sup> *Al Ayyam* on 31 January 1999.

<sup>696</sup> *Ibid*, on 9 October 1999.

<sup>697</sup> See *Al Ayyam* on 7 September 1996

<sup>698</sup> *Al Quds* on 8 September 1999.

US\$ 250) imposed by the municipality on anyone who wished to enjoy these services. In September 2000, a municipal employee was killed while he was fixing wastewater collection pipes (without the knowledge of his municipality) for a Palestinian family in the Gaza Strip town of Dier El Balah. The death of this employee was mainly due to the high fees mentioned above. The fees forced that family to work around the law, and to convince the municipal employee to fix these pipes in exchange for a given sum.<sup>699</sup>

Parallel to the cities and towns which do not enjoy wastewater collection and disposal system were the Palestinian refugee camps. The majority of these camps (19 in the West Bank and 8 in the Gaza Strip) do not enjoy this system. Though UNRWA is the official body responsible for supplying the refugees' camps with these utilities, at least half of these camps are located within the functional jurisdiction of the Palestinian municipalities.<sup>700</sup> Consequently, the Palestinian municipal system takes part of the responsibility for denying these camps access to these utilities.

Other towns and villages suffered not only the lack of wastewater collection and disposal system, but also a lack of running water. Good examples of this are the West Bank villages of Dier Ghasasnah, Bani Zied, Kafer A'in, Beit Rema, and El Nabi Salah. In 1996, the population of these five villages had been denied access to running water for three months. During these months, these residents had to walk for some kilometres to obtain water from other pools.<sup>701</sup> The same thing occurred in the Moraj neighbourhood in the Gaza Strip city of Rafah.<sup>702</sup>

To a large extent Israel takes the responsibility of the water problem in the WBGS. As discussed in chapter III, the Oslo accords affirmed Israel's control over the key resources in the territories. Water was among these resources. This clause enabled Israel to pump large quantities of WBGS water to its settlements inside the territories. At least 80% of the territories' water reserves had been pumped to the benefit of settlers inside the territories. This shifted settler consumption of water to more than 300 litres daily, as compared with 40 litres daily for Palestinians in 1999.

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<sup>699</sup> *Al-Risalah* on 14 September 2000.

<sup>700</sup> *Al Hayat Al Jadeeda* on 8 June 1996.

<sup>701</sup> *Ibid*, on 4 August 1996.

<sup>702</sup> *Ibid*, on 13 July 1996



Nevertheless, the Israeli pumping of large quantities of water to settlers does not release the Palestinian municipal system from its responsibilities. For instance, at least 20% of the water available to Palestinians is wasted due to the lack of proper networks for supplying water.<sup>703</sup>

In tandem with the irregularity of water supply was the irregularity of electricity supply. The irregularity in the electricity supply is considered to be one of the most worrying problems in the WBGS, and in the Gaza Strip in particular. This is due to certain historical reasons. As discussed in chapter II (P. 72), the Palestinian Jerusalem District Electricity Company (JDEC) was founded in 1956 to supply the West Bank cities and towns with electricity. When the Oslo accords were signed (in particular the Cairo accord on 4 May 1994), Israel allowed this company to keep supplying the West Bank with electricity. In this regard, the situation of the Gaza Strip was fundamentally different from that of the West Bank. Historically speaking, the Gaza Strip was denied the right to have its own electricity company. In fact, Israel had supplied the Gaza Strip with electricity since 1967. Because of that, the Cairo accord provides for Israeli supply of electricity to the Gaza Strip until an alternative system there is established (Article II, B. 24 of Annex II “Protocol Concerning Civil Affairs” of the Cairo Accord).

Unlike the West Bank, therefore, the Gaza Strip was left at the mercy of Israel as far as electricity is concerned. This fact left the role of municipalities confined to the collection of bills, and the maintenance of electricity delivery networks in the Gaza Strip. Even in these very narrow spheres, the municipalities had certain failures. In 2000, for example, the rate of the wasted electronic power was estimated at 25% in the WBGS. The rate was above the internationally accepted standard by 16%.<sup>704</sup>

Of course one of the chief reasons for the municipalities’ failure to ensure effective and proper maintenance of the electricity networks was their lack of particular skills for this purpose, in addition to the overlapping of their role in this regard with the role of the Gaza Strip-based Palestinian Electricity Distribution Company. The company was founded after the PA’s arrival to the WBGS and subordinated to the ministry of

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<sup>703</sup> *Al Quds* on 8 September, & *Al Ayyam* on 1 November 1999.

<sup>704</sup> *Al Hayat Al Jadeeda* on 22 June 2000.

energy. It is also responsible for collecting bills, and carrying out maintenance activities. In March 2000, Yihya Shamia, Director-General of the company, warned of the negative ramifications of the company's failure to cover the bill of the Israel electricity company (estimated at NIS 17.5 million for a month) due to the fact that people refrained from paying the electricity fees.<sup>705</sup>

During the recent *intifada* (which erupted on 28 September 2000) the municipalities were denied the right to perform any function relating to the provision of electricity, and the company became the only official body responsible for the electricity issues of the Gaza Strip.

The Gaza Strip-based Palestinian Electricity Distribution Company provides us with another example of the centralized model of government where the central authority seeks to perform some functions located at the heart of local authorities' work. Because of this model of government, Palestinians failed to establish independent energy generation station for the Gaza Strip in the period of 1994-2000. Palestinians of Gaza Strip had, therefore, to keep suffering the irregularity of electricity over the years of the interim period (1994-1999). But in early 2000, some efforts were made to end this suffering when the Swedish and Spanish governments granted the PA approximately US\$ 50 million as a loan to start building an energy generation station for the Gaza Strip at a cost of US\$ 93 million.<sup>706</sup>

The station, due to be in operation from the end of 2000, was to ensure a regular supply of electricity for the whole Gaza Strip, and to eliminate the monopoly of Israel over Gaza Strip energy. Unfortunately, the outbreak of the recent *intifada* postponed the execution of this project, and the Palestinians of the Gaza Strip had to keep suffering the irregularity of electricity over the years of the *intifada*. This fact prompts us to ask about the reasons that led to such late implementation of this vital and important project, which left Gazans suffering the irregularity of electricity since 1994 until present.

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<sup>705</sup> Ibid, on 21 March 2000.

<sup>706</sup> Ibid on 1 April & *Al Ayyam* on 29 May 2000.

What would be the case, for instance, if the Spanish and Swedish governments refused to offer financial support for the project? Was the PA missing the adequate funds to immediately initiate a vital project like that without their assistance? As concluded in the discussion on the features and characteristics of the Palestinian bureaucracy, the PA annual revenue is estimated at US\$ 1.940 billion (see P. 269). The PA, therefore, was in a financial position to immediately initiate this project without the help of donors. The only reason for such a delay was the system of government itself.

The system - mainly the neopatrimonial system - leaves a free hand for the ruling elite, and of course their patron, to politicize the use of public funds, bureaucracy, and impede altogether the development of any autonomous action such as those of local government institutions. The politicization and impediments took place under the pretext of certain laws and regulations founded mainly to sustain this system, and to legitimize it. The outcome of this situation is the deprivation of the majority of people of adequate and proper services and utilities, and of right to access to political institutions.

### ***The Opponents' Para-State Institutions: Toward a Grassroots Model***

In protest against the neopatrimonial system, the PA's opponents (mainly Hamas, Islamic Jihad, and PFLP) broke with the PA's para-state institutions, and tended either to strengthen their already established institutions, or founded new ones. Through these institutions, the PA's opponents managed to practice para-state functions, and consequently, to supply Palestinians with Para-state services similar to those of the PA.

It was shown, in chapter III, how these opponents stood against the Oslo accords, and ruled out these accords as a fair and just solution for the Palestinian problems. Emphasising their position, they pointed out that the Oslo process did not spell out a total Israeli withdrawal from the WBGS, and maintained the right of Israel to control the majority of these territories. Consequently, they state, the Oslo arrangement denied the Palestinian right to statehood and independence. Inspired by this belief,

they boycotted the Palestinian parliamentary and presidential elections of January 1996, as discussed in chapter IV.

With the failure of the PA to conclude the interim period with a Palestinian state over the WBGS, these opponents were empowered with another reason to keep applying their “non-peace policy” with Israel. More importantly, as discussed in chapter III, IV, and this chapter, were the PA’s various failures at the internal level, including its failure to promote the rule of law and human rights, to build viable government institutions, and to promote wide-scale political participation as well as people’s welfare.

This fact, coupled with Arafat’s policy of leaving them their social institutions/military infrastructure (as discussed in chapter III), promoted them as a serious alternative to PA, and enabled them to gain wide constituencies of support in the WBGS. In July 1994, for instance, the opposition factions enjoyed the support of 2.2-10.8% of Palestinians as against 40.9% supported Fatah, the PA party. But in April 2003, Fatah enjoyed the support of only 22.6% of Palestinians as against 2-22% supporting the opposition factions.<sup>707</sup> The increasing support for the opposition factions as against Fatah was mainly due to the PA failure to bring about any fundamental changes in the life of Palestinians (at the political, economic, and social level), and to the success of these factions to alleviate some of the Palestinians’ economic and social suffering. The means to do so were these factions’ charitable societies.

### **The Islamic Society**

The history of the Islamic Society dates back to the 1970s, when Palestinians decided to break with the formal state institutions (like the municipal offices) under Israeli occupation. As seen in chapter II many PLO affiliated grassroots institutions were emerging onto the scene. Parallel to the PLO affiliated institutions were the charitable societies affiliated with the Islamic movements, mainly with the Muslim Brotherhood (and later on in 1989 onward Hamas). Among these societies was the Islamic Society. The founders of this society (mainly Sheikh Ahmad Yassin, the former leader of

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<sup>707</sup> See JMCC Poll no. 5 in July 1994, & Poll No. 48 in April 2003. Online <<http://www.jmcc.org>>

Hamas) were inspired by two motivations. The first was political, while the second was religious.

According to Ahmad Bahr, the current head of the Society, the political motivation was to counter the impact of the Israeli occupation policy against the Palestinian social and economic life. In this sense, Bahr says, the fact that the Islamic Society sought to alleviate Palestinian suffering resulted from Israeli measures that included wilful killings, destruction of houses, ill-treatment and torture of Palestinians under detention, collective punishment and mass arrests, the confiscation of Palestinian land for settlement, and so on. Accordingly, Bahr concludes that the political motivation goes in harmony with the Islamic principles which assert values like social solidarity, and caring for orphans and the weak.<sup>708</sup>

As mentioned above, the Israeli measures over the years of the occupation left thousands of Palestinians dead, thousands others were injured, and thousands of others disabled. This fact left thousands of Palestinian children as orphans having no source of livelihood. When the PA arrived to the WBGS, the Islamic Society (alongside other charitable societies of course) was permitted to keep its operations, and was licensed by the ministry of the interior so that it could take part of the responsibility of helping these Palestinians.

Though this policy relieved the PA and its ministries from some burdens, it enabled the opponents to assume wider constituencies through their services to community. The Islamic Society, for example, operates approximately 43 kindergartens with a total of 7000 children. In addition, the Society operates several clinics, providing primary health services without charge or with minimum charge. Moreover, the Society organizes several summer camps for over 6,200 children aged 8-16 annually.<sup>709</sup>

In addition to these institutions, which enable Hamas to diffuse its ideology among these children, the Society offers permanent aid and care (financial and material alike) for approximately 7,800 needy Palestinian families, orphans and poor children. The

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<sup>708</sup> Interview. Gaza: Islamic Society Headquarter, 31 August 2004.

<sup>709</sup> Source: The Islamic Society, Gaza.

Society's aid and care to these families goes in parallel with its annual charitable activities (in the winter and in the Muslim holy month of Ramadan mainly). In each winter at least 5,000 needy families benefit from Society aid (in the form of clothes). Also, the Society supplies approximately 7,500 children with school bags annually, and feeds around 40,000 needy families each Ramadan.<sup>710</sup>

The role of this Society, and other similar ones, was very prominent during the most recent *intifada*. The Israeli measures adopted against Palestinians during the *intifada* caused a huge death toll among Palestinians, and brought serious hardship to their economic life. In 2002, a study concluded by the United States Agency for International Development (USAID), showed that approximately 55% of the Palestinian households were cut off from food for at least one complete day, while more than 52% of Palestinian households borrowed money to buy food, and another 17% were forced to sell their personal property to buy food. Furthermore, the study pointed out that approximately 66% of Palestinian households were unable to feed themselves due to lack of money.<sup>711</sup>

In response to these deteriorating economic conditions, the Islamic Society had evolved the "Emergency Aid Program" since the outbreak of the current *intifada*. The program offers material and financial help for those influenced by Israeli measures, supports some 3,000 Palestinian families annually.<sup>712</sup> Mainly, the Society depends on the funds distributed by a number of international and Palestinian benefactors. This fund is managed and operated by some 200-300 personnel, the estimated staff of the society.<sup>713</sup>

Interestingly enough, as the PA tended to politicize its bureaucracy, the Islamic Society tended to politicize its staff. In other words, most of the estimated 200-300 personnel of the Islamic Society seem to be affiliated with Hamas. Any conclusion in this regard depends on observations of the Islamic Society. During my field visit to the society I was treated with some suspicion, and the head of the society (Ahmad Bahr) refused to release much information with regards to society staff, in particular

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<sup>710</sup> Ibid.

<sup>711</sup> Excerpts of the study were published by *Al Quds* on 18 July 2002.

<sup>712</sup> Source: The Islamic Society, Gaza.

<sup>713</sup> Interview with Ahmad Bahr. Gaza: Islamic Society Headquarter, 31 August 2004

their ideological background. Nevertheless, the way I was treated is a typical treatment of Hamas members to anyone who does not belong to their party. The second reason which prompts this opinion was the way in which the interview with Bahr went.

Though Bahr and some of his staff were detained by PA security some years ago, and details about this issue were published by local newspapers and human rights organizations,<sup>714</sup> he refused to give details about this issue considering it one of the Society's secrets. Nevertheless, he admitted the detention, explaining that it happened because of his staff embracing Islam.<sup>715</sup> This is considered as another feature of Hamas members. In other words, they are extremely sensitive to their security, in a way that makes them sometimes irrational (as in this case). To some extent they are justified, in particular in recent times, as their civil and military infrastructure are considered one of the chief targets of Israeli measures (including the shelling and the Israeli policy of extrajudicial executions).

### **El-Salah Islamic Association**

The association, affiliated with Hamas, was founded in 1978. Similar to the Islamic Society, the declared goals were to support deprived people, to support orphans, and needy families, and to alleviate suffering of Palestinians resulting from Israeli measures toward the WBGS over the years of the occupation.<sup>716</sup> After the PA arrival to the WBGS the association was licensed by the ministry of interior in 1996 to become one of the chief charitable associations in the WBGS. In a similar fashion to the Islamic Society, the association provides services in various civil spheres including education, health, and social spheres.

Unfortunately, the association lacks any documentation with regard to the number of the beneficiaries since its foundation. This was one of the chief problems I encountered during my field research. All the surveyed societies and associations (excluding the newly emerging "Friends of the Martyrs" association as we will see

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<sup>714</sup> See for example PCHR. *the Right to Freedom of Expression*, op.cit., P.56.

<sup>715</sup> Interview with Ahmad Bahr. Gaza: Islamic Society Headquarter, 31 August 2004.

<sup>716</sup> Source: El-Salah Islamic Association. Dier El Balah/Gaza Strip.

later) lack any documentation regarding the number of beneficiaries since their foundation.

Accordingly, the data mentioned with relation to the Islamic Society, and that data which will be mentioned with relation El-Salah Islamic Association, deals only with the last ten years (1994-2004). During this period, the Association offered permanent material and financial aid for some 8,000 needy families, orphans, needy students, handicapped, and other deprived Palestinians. In the meanwhile, it operates two schools for elementary, preparatory, and secondary education. At least 720 students among the orphans (including the sons of those killed by Israeli forces) and needy children benefit from these two schools annually. Parallel to these schools are eight kindergartens serving 2,000 children annually.<sup>717</sup>

The education services provided to these children are free of charge. The services include exemption from the education fees, covering the cost of books, the school uniform, the transportation cost, and a daily lunch. Surprisingly, the association's schools are empowered with well advanced computer labs, libraries, laboratories, sports halls, and video conference facilities. In this sense, the education facilities of the association are more advanced than those of the government schools, the majority of which lack similar facilities. On the health level, the association operates four clinic centres serving approximately 15,000 Palestinian monthly. The association operates these institutions in addition to 30 centres for teaching the Muslim's holy book (the Kora'n) to children.<sup>718</sup>

Approximately 200 personnel run the various activities of the association. The decision concerning the recruitment of these personnel, promotion, dismissal, is made by a board consisting of eleven members.<sup>719</sup> The majority of the board members are affiliated with Hamas. These members are responsible for soliciting funds for association operations. In this regard, they rely upon local benefactors (institutions and individuals as well), and international benefactors (institutions and individual also).

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<sup>717</sup> Ibid.

<sup>718</sup> Ibid.

<sup>719</sup> Ibid.



## The Friends of Martyrs Society

This society was founded only in 2001. The society, affiliated with Islamic Jihad, was founded in response to the Israeli measures against Palestinians in the current *intifada*. These measures left thousands of Palestinians dead, other tens of thousands injured, tens of thousands under detention. In addition hundreds of homes were demolished, and large stretches of agricultural land razed. In addition to the huge death toll, and the losses in property, was the deterioration of the economic condition of most Palestinians, as mentioned before. The society is concerned mainly with the families of martyrs, and to a lesser extent detainees and needy families, orphans, and needy students.

The Society provides only financial and material help. It runs no schools or health centres. This might be explained by the Society's young age. Currently, it offers financial and material help to nearly 4,000 families, out of which 3,000 are martyrs' families. The remaining beneficiaries range between detainees and needy families, orphans and needy students.<sup>720</sup> The estimated financial help for each martyr's family is between US\$ 75-250 monthly, while the estimated financial help for each detainee's family is US\$ 100 monthly. In the meanwhile, the estimated financial help for the needy families is between US\$ 50-200 monthly.<sup>721</sup> As far as the financial aid for needy students is concerned, this took the form of covering the education fees of these students in coordination with the concerned academic institutions.

Unlike the Islamic Society and El-Salah Association, the Friends of Martyrs Society solicits its funds only from international benefactors (institutions and individuals). Among these institutions are the Danish-Lebanese Friendship society in Denmark and the Society for the Deprived People in Belgium.<sup>722</sup>

The fact that this Society, and other similar ones (El Salah association, Islamic Society, etc) are permitted to carry out their activities, did not imply that they are far from PA watch. In fact, the contrary is the case. As we have seen, these societies (the

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<sup>720</sup> Interview with Nafez Al Araj, head of the Society-Gaza based office, Gaza: 2 September 2004.

<sup>721</sup> Ibid.

<sup>722</sup> Ibid.

Islamic Society for example) were subjected to PA harassment, including the detention. In the aftermath of the events of September 11, the PA harassment for these societies escalated.

The events brought about fundamental changes in the international mood, and left the issue of combating terror at the top of US and Western countries' agenda. Within this context, Islam was viewed by such countries as being mixed with terror, and most charitable Islamic organizations and societies became subjected to strict watch by most of the world countries. This fact, signals clear bowing to and acceptance of the new international order dominated by the US. This world order left the global future of the Islamic charitable organizations and societies under serious threat.

Palestinians were not immune from the impacts of these events, and most of their charitable societies and organizations suffered the repercussions of these events. On 24 August 2003, the PA decided to freeze the accounts of 39 charitable societies working in the territories.<sup>723</sup> The PA decision to freeze the accounts of these societies would effectively deny thousands of deprived Palestinians basic education, health, and relief services. Because of that, the Palestinian High Court ordered the release of these societies accounts on 21 March 2004. Despite this, the PA refused to execute the court order, and these societies were asked since then to refer to the minister of the interior in order to withdraw from these accounts.<sup>724</sup>

Parallel to PA measures against these societies were the Israeli measures, including the shelling of their property. Continuously, Israel claims that these societies support the families of the suicide bombers, and consequently, encourage "terrorist activities". In May 2004, the Israeli occupying forces shelled the Friends of Martyrs Society. The Israeli army spokesman claimed that the society is considered as the vanguard of Iran and the Lebanon-based *Hizb Allah* (the party of Allah) in WBGS, and accused it of diffusing terrorist ideas, and recruiting individuals for carrying out terrorist operations.<sup>725</sup>

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<sup>723</sup> See PCHR press release on 21 March 2004.

<sup>724</sup> See Ibid, on 31 March, & 8 April 2004.

<sup>725</sup> *Yediot Ahronot* on 15 May 2004.

While these societies were subjected to PA harassment, other opponents' grassroots institutions, mainly those affiliated with the PLO factions like Union of Health Work Committees could operate within a relatively comfortable environment.

### **Union of Health Work Committees (UHCW)**

We have discussed in chapter II how the UHCW, parallel to other grassroots institutions like the Union of the Palestinian Medical Relief Committees (UPMRC), Union of Health Care Committees (UHCC), and the Health Services Council (HSC) emerged on the scene from 1979 onward. With the exception of the UHCW, these grassroots health institutions were affiliated either with the Palestinian Communist Party (and later People's Party) or Fatah. In this sense, these institutions were not to be considered as the future institutions of the PA opponents. Only the UHCW, which is affiliated with PFLP, was to be considered so. Because of that, I shall focus my attention only on UHCW as a secular opponent institution.

This institution was founded in 1985. The institution was an organizational manifestation of the Palestinian desire to disengage from the occupation, and to accentuate the Palestinian national identity (as discussed in chapter II). The founders of this institution were concerned about deprivation, and the denial of Palestinians' right to adequate and proper health services (due to the high subscription fees of the health insurance under the occupation). Motivated by this concern, they established their first clinic centre for primary health care in Ramallah, and then later (in 1989) in Beit Hanoun village, in the north of the Gaza Strip.<sup>726</sup>

Over time, they succeeded in establishing other clinics, and expanded the health care provided to community to include secondary health care. Around 1994, the UHCW was operating approximately 25 clinic centers and health programs. The health care provided by these centers and programs covered many health domains including: gynecology and obstetrics, ENT, endocrinology, dermatology, internal medicine, dentistry, general surgery, urology, pediatrics, plastic surgery, neurology, respiratory diseases, cardiology, allergy, orthopedic, health awareness, and others. In addition,

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<sup>726</sup> Interview with Muna El Farah, Director of the Community Health Department, Gaza: UHCW, headquarter, 5 September 2005.

these centers and programs provide para-medical services including x-ray, ultrasound, laboratory, and pharmacy services.<sup>727</sup>

According to Muna El Farah, director of the community health department, the estimated number of the beneficiaries of these centers and programs is 150,000-180,000 annually.<sup>728</sup> These centers depended on the funds distributed by a number of international and Palestinian benefactors, offered their services with minimum charge. After the PA's arrival to the WBGS, the UHWC was permitted to keep operating its health programs, and accordingly, three additional clinic centers were established (two in the West Bank and one in the Gaza Strip) in 1996. More importantly was the establishment of Al Awda Hospital in the northern area of the Gaza Strip in the same year.<sup>729</sup>

This hospital was established mainly to provide secondary health services to approximately 220,000 Palestinians (the estimated number of the population of the Gaza Strip northern area). It played a vital role in ensuring these Palestinians with short-distance health care, particularly during the recent *intifada*, which witnesses regular confrontations between Palestinians and the Israeli occupation forces necessitating on-call health care. Because of its close location, the hospital managed to serve 125,395 Palestinians in 2002. Furthermore, around 28,210 Palestinians benefited from the services of the hospital's outpatient department. In addition, 2,416 medical operations, and nearly 1,470 deliveries were performed by the hospital.<sup>730</sup>

Mainly, the UHWC recruits its members from among the middle class and intellectuals. Most of the UHWC are supporters or affiliated with PFLP. In 2002, the UHWC recruited approximately 238 personnel, out of whom there were 16 volunteers (nearly 7%), 10 privately-contracted staff (4.2%), 42 rewards-job staff (17.6%), 6 part-time staff (2.5%), 88 full-time staff (nearly 37%), 9 on-call staff (3.7%), and 62 others (26%).<sup>731</sup>

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<sup>727</sup> See UHWC. *The 1995's Annual Report*. Gaza: UHWC headquarter, 1995.

<sup>728</sup> Interview. Gaza: UHWC headquarter, 5 September 2005.

<sup>729</sup> See UHWC. *The 1996's Annual Report*. Gaza: UHWC headquarter, 1995

<sup>730</sup> See UHWC. *The 2002's Annual Report: Despite the Siege*. Gaza: UHWC headquarter, 2002, Pp.8-9.

<sup>731</sup> Ibid. P.52.

Unlike the tense relation of the Islamic charitable societies with the PA, the UHWC enjoys a relaxed relation with the PA. For example, none of the UHWC staff have thus far been subjected to any form of harassment by the PA, and on more than one occasion the UHWC coordinated its activities with the PA concerned bodies (e.g., ministry of health).<sup>732</sup> The reason for this relaxed relationship is of course a political one. Despite the divergence of the PFLP with PA as far as the Oslo process is concerned, it converges with the PA on the goal of building a secular state in the WBGS. This convergence is backed by both parties' agreement that the PLO is the sole representative of Palestinian people wherever they are.

The picture looks fundamentally different when it comes to the Islamic movements (so to speak Hamas and Islamic Jihad). Unlike the PFLP, Hamas and Islamic Jihad advocate the establishment of an Islamic state on the whole of the Mandatory Palestine and claim Palestine as Waqf land owned by Muslims all over the world. Consequently, no one should have the right to negotiate any part of it. In this sense, they make no separation between the Palestinian land which occupied during the 1948 war or the 1967 war. This position prompted their failure to recognize the PLO with its political program of a secular state on WBGS as the sole representative of Palestinians.

Based on this position, they introduce themselves as an alternative to the PLO/PA. In so doing, they are supported by their own militias (e.g., the Hamas affiliated Izz El Din El Qassam Brigades) which operate far from PA control. This fact contributes to the picture of "State within State" in the WBGS. Ironically, this picture is similar to the one of the PLO situation in other Arab countries (mainly in Jordan, and later in Lebanon) in the pre-Oslo era.<sup>733</sup> Therefore, history seems to re-write itself, but this time not for the benefit of the PLO/PA, but rather for the benefit of its opponents.

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<sup>732</sup> Interview with Muna El Farah, 5 September 2005.

<sup>733</sup> For an excellent assessment of the PLO's history see Cobban, *op.cit.*,

## **Chapter VI: The Al-Aqsa intifada**

### **The Struggle for Reform**

The 28<sup>th</sup> of September 2000 witnessed a turning point in the history of the Oslo peace process and in Palestinian-Israeli relations. It was on this day that Ariel Sharon, then the Israeli opposition leader, visited *Al-Haram Al Sharif* (Temple) in East Jerusalem, a step considered by many Palestinians and by the international community as a highly provocative one. The visit sparked what became to be known as the *Al-Aqsa Intifada* (*Al-Aqsa* being a mosque at *Al-Haram Al-Sharif*). The *Al-Aqsa intifada* started with clashes between some Palestinians praying at the *Al-Aqsa* Mosque and hundreds of Israeli soldiers who had accompanied Sharon during his visit to *Al-Haram*. Some of the Palestinians fell victim to lethal force, which ignited the clashes to extend to most Palestinian cities, villages and camps.

In the early stages of these clashes, the Israeli occupying forces used heavy and medium calibre machine guns against Palestinians. After less than a month (on 12 October 2000), these forces started deploying - for the first time since the occupation of WBGS in 1967 – the weapon of helicopter gunship, naval gunboats and tanks to shell and to carry out large scale ground incursions into cities, towns and refugee camps.

The shelling of and incursion into Palestinian cities and towns were paralleled with a policy of collective punishment, including the installation of military checkpoints and roadblocks between the cities, towns, villages and camps of WBGS, to curtail the movement of Palestinians between them. Without exception, all Palestinians were affected by this measure: the general public, PLC members, PA senior & junior officials, university and school students, merchants, businessmen, and in some cases, PA ministers and heads of PA security forces.

The checkpoint and roadblock system tightened the noose around Palestinians who, due to the closure imposed on WBGS since 1991, had been denied access to Jerusalem (including East Jerusalem) and Israeli territory, and forbidden to move between the West Bank and Gaza Strip without a permit. With the random closure of the *Rafah* International Terminal (the only outlet for Gazans to the outside world), and

*Al Karamah* International Terminal (the only outlet for West Bankers), some 3.2 million Palestinians -the estimated population of WBGS in 2000<sup>734</sup> - were besieged in their cities, towns and villages.

The Israeli measures did not only target Palestinians, but also their property. In a report prepared by the Social and Economic Committee of West Asia and submitted to the UN Social and Economic Council, in its 59th session convened in New York on 23 June 2004, nearly 1,370 houses were destroyed or damaged by the Israeli occupation in the period of 2002-03. In addition, at least US\$370 million were the estimated losses of the Palestinian economy in the period between September 2002 and April 2003. Of this were US\$217 million losses to the agriculture sector, resulting from the Israeli measure of razing large stretches of Palestinian agricultural land. The remaining losses resulted from the Israeli measures of checkpoints and closure, the dismissal of thousands of Palestinian employees from Israeli labour markets, and the Israeli decision to freeze the transfer, to the PA, of the taxes collected from the Palestinian labours on behalf of the PA. All of this increased the unemployment rate of the WBGS to 63% by 2004.<sup>735</sup>

The economic losses of Palestinians paralleled their losses in human life: 2,726 Palestinians died in the period between September 2000 and December 2003. Around 20.2% of these Palestinians were killed by direct ammunition fired at the head and neck, 13.8% at the chest and 38.9% at the upper parts of the body. Most of these Palestinians were killed by live bullets (67%), by shrapnel (6.5%) and in explosions (13.7%).<sup>736</sup> The majority of those killed in explosions (bombs fired by helicopters or tanks) were allegedly wanted by Israeli occupying forces. In this sense, they were assassinated. The assassination policy, formally pursued by Israel against Palestinian activists since the 1970s,<sup>737</sup> was the instrument invoked by Israel to combat *intifada* activists, including members/leaders of Hamas, Islamic Jihad and *Al-Aqsa* Martyrs Brigades, the newly emerged military organization affiliated to Fatah. At least 349 Palestinians were assassinated in the period of December 2002-December 2003. Among them were 137 civilians (out of whom were 35 children and 25 women) by-

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<sup>734</sup> PCBS. *Statistical Abstract*, op.cit., P.189.

<sup>735</sup> Excerpts of the report were published by the *London-based daily of Al-Hayat* on 31 July 2004.

<sup>736</sup> MoH. *Health Status*, op.cit., P. 111.

<sup>737</sup> Cobban, op.cit., P.55.

standards. While some 3,000 Palestinians were killed from the outbreak of the *intifada* up to December 2003, no more than 950 Israelis were killed during the same period.<sup>738</sup> In the meantime, only 6,000 Israelis had been injured since the outbreak of the *intifada* as compared to some 24,000 Palestinians.<sup>739</sup>

These figures show clearly how Palestinians were no match for Israel, and accordingly, how they would suffer dearly if the *intifada* lasted. However, the longer the *intifada* lasted the more Israel was going to lose, especially insofar as its status in the international community was concerned. As a result of Israel's excessive and lethal use of force against Palestinians, the United Nations Human Rights Commissioner (UNHRC) adopted a resolution condemning Israel for the disproportionate and indiscriminate use of force, and accused it of war crimes on 19 October 2000.<sup>740</sup> A month later, the UN Human Rights Commissioner Mary Robinson strongly condemned Israel for its determination to use lethal and excessive force against Palestinians, and blamed it for the continuous suffering of Palestinian civilians.<sup>741</sup>

The growing international criticism of Israel's excessive and lethal use of force against Palestinians, such as the broadcasting of Israeli soldiers killing 12-year-old Mohammad Al Durra in his father's lap on 30 September 2000, which influenced Israel's international image, prompted Israel to consider the media as another weapon with which to fight Palestinians. The Labour-led Israeli government under Ihud Barak began a media campaign seeking to de-legitimize the internationally recognized right of the Palestinian people to self-determination. The campaign blurred the distinction between Israeli measures against civilians/children and its war against a standing army.

The campaign operated on two levels: the first was at the family level. In this regard, the Barak-led government blamed Palestinian parents for encouraging their children to fight an 'adult war'. On this level, the Barak government, benefiting from its

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<sup>738</sup> the *London-based daily of Al-Hayat* on 31 July 2004.

<sup>739</sup> Source: the official webpage of the Palestinian Ministry of Foreign Affairs  
<<http://www.mofa.gov.ps/Statistics/index.asp>>

<sup>740</sup> Marwan Bishara. *Palestine/Israel: Peace or Apartheid*. London & New York: Zed Books, 2001, P.35.

<sup>741</sup> *Ibid.*, Pp35-36.



advanced and developed media system, achieved considerable victory. Palestinians suddenly had to defend the love of their children and to prove to the international community that Israel was the one responsible for the suffering of their children, not the other way around.

The second level of the campaign focused on Palestinian military organizations, mainly the *tanzim*. *Tanzim* is the Arabic word for organization. It is commonly used by people to refer to Arafat's party, Fatah. The Barak government accused *tanzim* members of shooting at Israelis and consequently blamed their leader, Arafat, for the unrest in the region. Interestingly, while some of the estimated hundreds of young people shooting at Israelis belonged to the *tanzim*, the majority had no connection to the *tanzim*, nor did they claim to.<sup>742</sup>

In this sense, the *tanzim* did not constitute an organized or self-standing military formation. Some of the young people shooting at Israelis may belong to Hamas, others to Islamic Jihad, and others to PFLP or DFLP, or they may not belong to any faction. Some of these young Palestinians bore the brunt of the occupation and suffered its consequences, including the fatal shooting of their relatives and the destruction of their houses. Others were themselves subjected to humiliating measures, such as ill-treatment and torture under detention, and the confiscation of their land for settlement purposes.

Far from this, these Palestinians were told of the justice and fairness of their cause by the UN Security Council and General Assembly resolutions 242, 338, 194, 3236 and others.<sup>743</sup> These resolutions confirm the right to an independent Palestinian state on the land occupied in the 1967 War (WBGS including East Jerusalem), to self-determination, and to return for refugees. Therefore, these Palestinians were empowered with the weapon of justice and fairness to fight the occupation and to convince the international community.

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<sup>742</sup> Ibid., Pp.36-42.

<sup>743</sup> For these resolutions see George J. Tomeh (ed.). *United Nations Resolutions on Palestine and the Arab-Israeli Conflict*. Beirut: Institute for Palestine Studies, 1975.

However, their lack of an advanced media strategy, together with little awareness of the security implications of the *intifada*'s militarization, enabled Israel to commit grave breaches of the laws and customs of war against Palestinians under the pretext of the security threat of Palestinian military factions, whilst simultaneously blaming them (the Palestinian military organizations) for these war crimes. In so doing, Israel's argument was supported by the suicide bombings committed mainly by Hamas and Islamic Jihad against Israeli civilians.

These bombings, strategically causing more harm than benefit to the Palestinian cause, empowered Israel with reasons for its intensive military actions against Palestinians. Consequently, Israel was able to recruit international support for its alleged battle to maintain Israeli security. While Israel was recruiting human and financial resources to gain further international support for its claimed battle, Palestinians did very little to offset the effect which Hamas' and Islamic Jihad's bombings had on the international community's image of Palestinians, or on the Israeli media campaign.

Israel maintained its determination to achieve a sweeping victory on the media front. During this time, Israel was not only backed by a strong and advanced media strategy, but also by some international developments, mainly the events of September 11<sup>th</sup> in 2001. These events took place less than a year after the rise to office of the Likud party under Ariel Sharon. They brought about fundamental changes in the international mood and put the issue of combating terror at the top of the American agenda. Within this context, Islam was perceived as being inherently associated with terrorism and most branches of the Islamic movement were labeled as terrorists.

Taking advantage of the anti-terrorist international mood and of the continuing attacks by Hamas and Islamic Jihad against Israeli civilians, the Likud-led Israeli government encountered little difficulty in blurring the distinction between the Palestinian resistance against the occupation, which is legitimate under international law, and the terror outlawed by international norms. Paradoxically, the right-wing Israeli government was doing so with the blind support of one of the most democratic and liberal states - the USA - led by a right-wing Republican administration with George Bush at the helm. The lot of the besieged and humiliated Palestinians, therefore, was

to endure Israeli war crimes backed by the Americans and tolerated by the Europeans and the Arabs, all the while being blamed for these crimes.

### ***The Reform: Between a Palestinian Vision and an American-Israeli One***

The blind support of the American administration for the Likud-government, and its failure to restrain this government's lethal actions against Palestinians, coupled with European and Arab acquiescence, were key factors which encouraged Sharon to launch one of the most full-scale military campaigns against Palestinians in March 2002. In this campaign, Israeli forces reoccupied most of the West Bank cities (Ramallah, Beit Jala, Bethlehem, Jenin, Qalqilya, Tulkarm, Nablus, and Silfeet) in addition to other towns and villages. The declared goal of the campaign, which marked the death of the Oslo process, was to destroy the infrastructure of terror and to arrest all those accused of facilitating suicide bombers' operations.

The slogan, therefore, was the fight against terror and against its supporters, including the democratically-elected PA president, Arafat. From the Likud government's point of view, Arafat was no longer a peace partner because he stepped aside and allowed his people to express themselves freely. Since he did so, the Likud government argued, Arafat became the patron of incitement and terror against Israel and therefore was to be excluded from any peace negotiations.

Needless to say, neither Arafat, nor any other political leader, can control his people's anger and their strong desire to revolt against their humiliating conditions when they decide to do so. The *Al-Aqsa intifada* was in fact a protest against the humiliating conditions and the balance of power inherent in the Oslo process. Due to this logic, principles like international legality and justice were marginalized, and consequently, Palestinians were left to the mercy of the Israeli interpretation of this process. This interpretation implied the legitimisation of Israel's control over the West Bank and Gaza Strip by besieging the Palestinian populated centres by Jewish settlements whilst simultaneously building by-pass roads to prevent any horizontal expansion of these centres.

According to the Israeli Information Centre for Human Rights in the Occupied Territories (B'Tselem), the number of settlement housing units in WBGS had steadily increased since the signing of the Oslo Accords in 1993 to reach 31,400 by 2000. The increase in the number of housing units was accompanied with an increase in the number of settlers from 100,500 in 1993 to 191,600 in 2000 (a growth rate of 90%). This excludes the settlements of East Jerusalem where the number of settlers is estimated at 176,900 in 2000 as against 146,800 in 1993.<sup>744</sup> These Jewish settlers, according to the Foundation for Middle East Peace (FMEP), are distributed in no less than 130 settlements in the West Bank (excluding East Jerusalem), 21 settlements in the Gaza Strip, and 11 settlements in East Jerusalem.<sup>745</sup>

It is this backdrop against which the *intifada* must be examined. The fact is that the Oslo process failed: to halt settlement activities, to stop humiliating measures against Palestinians (like closure, detention, torture and fatal shootings), alongside its failure to bring about the promised economic prosperity. This led to an accumulation of anger and frustration among Palestinian civilians. When Arafat decided to step aside and allow his people to release their anger in protest against these conditions, Israel turned against him and treated him as the patron of terror.

Under this pretext, the Sharon-led government besieged Arafat in his compound (*Al-Muqatah*) in Ramallah during its military campaign of March 2002. The siege, which lasted until Arafat's departure on 11 November 2004, sought to physically isolate the man, to disconnect him from the external world and, therefore, to prevent Palestinians from achieving any gain in the diplomatic arena - the only arena that can provide them significant progress. In addition, the siege sought to influence Arafat's image in the eyes of his people and therefore to weaken Arafat's capacity to make authoritative

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<sup>744</sup> B'Tselem. *Land Grab: Israel's Settlement Policy in the West Bank*. Jerusalem: B'Tselem, May 2002, P.12. Can be found <<http://www.btselem.org/english/Publications/Summaries/Land-Grab-2002.asp>>

<sup>745</sup> Fmep. *Israeli Settlement in the Occupied Territories: A Guide*. Fmep, A special Report of the Foundation for Middle East Peace, March 2002, Online <<http://www.fmep.org/org/reports/2002/sr0203.html>>

decisions and to lead his people.<sup>746</sup> As Sharon pointed out, “the Israeli government has a standing decision to remove Arafat from any position of influence.”<sup>747</sup>

While the Sharon government took the responsibility of removing Arafat from “any position of influence,” the Bush administration began a diplomatic campaign aimed at convincing the international community that Arafat was the source of Palestinians’ problems. After less than three months of Sharon’s siege of Arafat, Bush gave a speech at the White House (on 24 June 2002), clarifying his administration’s vision of the Middle East peace process. In this regard, he declared that “peace requires a new and different Palestinian leadership, so that a Palestinian state can be born. I call on the Palestinian people to elect new leaders.”<sup>748</sup> The new leadership must build viable political institutions, and “build a practicing democracy, based on tolerance and liberty. If the Palestinian People actively pursue these goals, America and the whole world will actively support their efforts.”<sup>749</sup>

Thus, the message for Palestinians was clear: political progress was conditioned on the new security environment and on institutional reform, and, consequently, a regime change was essential. If Palestinians were to have their own state they must engage in new security arrangements to fight “terror”, reforming their political institutions based on principles of transparency, of accountability, of demarcation of power, and of promoting a pluralist civil society and free market economy. This was not going to happen, in Bush’s point of view, if the current leadership had not been changed. Arafat, therefore, was the one who, in the US administration’s point of view, blocked the road towards a Palestinian state, since he blocked democratic transformation in WBGS. Hence, the US policy of fighting Arafat became the key, in their eyes, to carrying out reform. This policy complemented the slogan of “patron of terror” adopted by Israel to describe Arafat during the *Al-Aqsa intifada*.

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<sup>746</sup> Lev Grinberg. “The Arrogance of Occupation”. In *Middle East Policy*. Vol. IX, no.1, March 2002, P.47.

<sup>747</sup> Quoted in Graham Usher. “Moving Toward a Cease-Fire?” In *Middle East International*. No. 713, 21 November 2003, P.12.

<sup>748</sup> The full text of President Bush’s Speech of 24 June 2002 can be found on < <http://www.usembassy-israel.org.il>>

<sup>749</sup> Ibid.

Ironically, the patron of terror and the blocker of democratic transformation (Arafat as viewed by Israel and the US administration) was the same person who cooperated with Israel and the US to fight “terrorism” and any form of resistance against the occupation during the interim period. He was also the same person who launched dozens of arrest campaigns against members of Hamas, Islamic Jihad and their supporters for the sake of Israel’s security (See chapter III).

As well, he was the person who limited basic freedoms such as the freedom of expression, and who arrested civil society activists and tried them before the State Security Court founded in 1995 (See chapter III), with Israeli and American support as provided by the Wye-River memorandum signed in 1998 (for this memorandum see chapter III). Furthermore, Arafat was the one who undermined the role of the PLC, and who tolerated and sometimes even promoted corruption and misuse of power (as was shown in in chapter III, chapter IV, and chapter V) under America's and Israel’s watch.

Was the reform not a necessity for Palestinians? Certainly, it was. But the reform desired by Palestinians is fundamentally different from that desired by the US and Israel. From the very beginning, Palestinians and their representative institutions were concerned with reform. On more than occasion, as we have seen in chapter IV, the PLC expressed its concerns over Arafat’s semi-autocratic rule and demanded new political arrangements based on the principles of transparency and accountability.

On more than one occasion, the PLC, backed by civil society, also stood against the PA’s illegal arrests of opposition members and supporters (see chapter III, and chapter IV), and demanded the release of all political prisoners. As well, the PLC, joined by some PA institutions (like the GMC, as we have seen in chapter IV), stood against corruption and called on Arafat to try all those accused of misusing their office and power. Even during the *intifada* and Palestinians’ preoccupation with Israeli measures against them, the issue of reform gained a great deal of attention from Palestinians, manifested in the PLC document on reform published on 16 May 2002.

The document, including comprehensive institutional arrangements, aimed at structural adjustments in the financial, security, judicial and administrative sectors.

The overall goal of these measures was to produce a functioning political system, based on the principles of separation of powers, transparency, accountability and the rule of law. Among these measures were:

- to immediately ratify the Basic Law and implement PLC resolutions;
- to immediately enact the law of the judiciary;
- to hold legislative and presidential elections at the beginning of 2003;
- to amend the 1995 electoral law in a manner that ensures wide representation in political institutions;
- to initiate the preparation of the local council's elections and to schedule a date for these elections;
- to limit the number of ministers in cabinet to not more than 19, in accordance with article (65) of the Basic Law;
- to merge and/or close those ministries with similar duties and to limit, as much as possible, any establishment of independent administrations and, instead, to include them in existing ministries;
- to unify the finances of the PA in the general treasury account, to carry out and publish accounts for all revenues from government properties and for investments made by the PA, and to procure all revenues in terms of fees, loans, grants, taxes, and others incoming to the PA through its activities. No amount of money from the general treasury should be allocated or spent for any purpose unless decided by law;
- to place all revenues from officially sanctioned monopolies (the Palestinian Company for Trade Services [Cement Company], the Palestinian Development and Investment Company, the Petroleum General Commission and the Tobacco Commission) under the supervision of the ministry of finance, in accordance with the law;
- to restructure the security apparatus by enacting laws governing the work of the security services and the conditions of their recruitment, and by defining their jurisdictions and authority in a manner that minimizes redundancy of duties; and

- to streamline security services, to place them under the control of the ministry of interior, and to limit the term of the heads of security services to four years.<sup>750</sup>

PLC concerns with reform were similar to those of the cabinet, as manifested in the “100 Days Plan of the Palestinian Government” concluded by the “ministerial committee for reform and development” formed by Arafat in the same year. The plan, approved by Arafat a day before the invasion of West Bank cities in March 2002, went in the same vein as the PLC reform document and set down measures that are necessary for a functioning political system based on the principles of rule of law, transparency and accountability. Furthermore, it called for the restructuring of the Palestinian security apparatus, and for their subjection to the supervision of the ministry of interior. In addition, the plan unified the finances of the PA in the general treasury account and procured all PA revenues in terms of fees, loans, grants, taxes and others incoming to the PA through its activities.<sup>751</sup>

The Palestinian concern with reform was not confined to formal political institutions, but extended also to include civil society, which adopted a reform plan in 2002 asserting the above reform measures.<sup>752</sup> The general public was also concerned with reform. On more than one occasion, the public expressed opposition to Arafat’s semi-autocratic rule. On 25 October 1998, hundreds of Palestinians protested against the murder of a Palestinian by the Palestinian security forces in Ramallah. The protestors shouted, “PA, PA, we want an end to torture, we want freedom.”<sup>753</sup> In a similar fashion, hundreds of Palestinians protested against the sentences of death, of life imprisonment and of 15 years imprisonment handed down by the state security court to three Palestinians convicted of killing Rifat Mohammed Joudeh, a Sergeant in the Preventive Security Forces, on 10 February 1999.<sup>754</sup>

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<sup>750</sup> E’Alan Sadir *An El Majlis El Tashri’e Li Tatweer wa Islah Moasasat El Sultah El Watanya El Filistinya* (A declaration published by the PLC to reform and develop the Palestinian National Authority Institutions). Palestine: PLC, 16 May 2002. An English translation of the same document can be found <<http://www.aman-palestine.org>>

<sup>751</sup> For the “100 days plan of the Palestinian government” see <<http://www.aman-palestine.org>>

<sup>752</sup> For civil society vision of reform see Ibid.

<sup>753</sup> *Jersualem Post* on 30 October, 1998.

<sup>754</sup> PCHR’s releases on 2 February & 10 March 1999.



Thus, Palestinians were very interested in reform. At the same time, however, they sought a type of reform that would not contradict their national aspirations. As Graham Usher points out, “Palestinians are not uninterested in democratic change. They are simply not prepared to trade domestic reform for the national independence.”<sup>755</sup> For Palestinians the reform process implies a practicing democracy, based on transparency, accountability, rule of law and respect for human rights, under a strong leadership capable of realizing their national aspirations of independence, self-determination and return. This was, and still is, the Palestinian vision of reform. Though Arafat failed to realize Palestinians' aspirations in a democratic and rule of law-based political system, he strongly opposed any surrender of their national aspirations, demanding an independent state with East Jerusalem as its capital, self-determination and return. Arafat's position in this regard was very clear in the Camp David II summit which took place under the auspices of former American President Bill Clinton during 11-24 July 2000.

Long overdue, the summit dealt with final status issues, including the future of the Palestinian refugees, Jerusalem and borders. The three main actors of the summit were under pressure and in urgent need of an agreement over these issues. President Clinton was about to leave office, a fact that compelled him to call for the summit so that his political legacy could culminate with a historical achievement: the settlement of one of the longest and most complicated global conflicts.

Then Israeli Prime Minister Ehud Barak also needed an agreement, as he had already staked his political future on a historical agreement with Palestinians. At the same time, Palestinians had already announced their intention to declare a Palestinian state by September 13 of that year. Such a declaration would have had great momentum if there was agreement over the final status issues.<sup>756</sup>

Though the three actors had the desire to conclude an agreement, Israel, backed by US, was unprepared to settle the conflict on the basis of UN resolutions 242 and 194. While the former resolution provides for a total Israeli pullout from the land occupied

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<sup>755</sup> Graham Usher. “Israel, Arafat, and the US occupation”. In *Middle East International*. No. 711, 24 October 2003, P.11.

<sup>756</sup> *Al-Quds Al-Arabi* on 11, 12, 14 July 2000.

during the 1967 war, including the WBGS and East Jerusalem, the latter also provides for the return of all Palestinian refugees to their land.

Instead of these resolutions, it was said that Israel proposed a settlement to the conflict based on an Israeli withdrawal from 85% of the West Bank after the conclusion of the final status agreement, with an additional withdrawal from a further 7% of the West Bank within a couple of years. In exchange for this withdrawal, Israel would annexe the main West Bank settlements (up to 8% of the West Bank) under its sovereignty. With regard to the border between the West Bank and Jordan, Israel proposed Palestinian control over 80% of it, and Israeli control over the remaining 20% (mainly the borders close to the Dead Sea).

As far as East Jerusalem was concerned, it was said that Israel proposed the city's division into three zones. One zone would be under complete Israeli sovereignty, another under some form of Palestinian sovereignty. The remaining zone would enjoy the same status as areas "B" in the West Bank, where Palestinians enjoy civil authority, while Israel enjoys authority over security affairs. As far as the *Al-Aqsa* Mosque was concerned, Israel proposed its internationalisation while Palestinians would be allowed to raise their flag above it. In the meanwhile, Israel refused to admit its moral and legal responsibility for the problem of the refugees - estimated at 3.5 million worldwide - notwithstanding its readiness to allow thousands of them to return to the "state of Palestine" within the context of "family reunion".<sup>757</sup>

According to reported information, what Israel sought was a new form of the Oslo process with its "interim attributes" that were disastrous for Palestinian national aspirations. Because of that, Israel did not hesitate to accept the American proposal of postponing the issue of Jerusalem to future negotiations while signing an agreement in relation to other issues. The American proposal, aimed at offsetting Arafat's rejection of the Israeli proposal, was in vein, as Arafat turned it down, insisting on full Israeli withdrawal from the West Bank (including East Jerusalem) and the Palestinian right to return.<sup>758</sup>

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<sup>757</sup> Ibid, on 21 July 2000.

<sup>758</sup> Ibid., on 22/23 July 2000.

Because of his position in Camp David II, Arafat was besieged and suddenly became a patron of terror and a blocker of democratic transformation,<sup>759</sup> notwithstanding his readiness to implement an “unconditional cessation of violence” and to “immediately resume security cooperation” with Israel as it was manifested in the conclusions of the Sharm-El Sheikh summit convened on 17 October 2000, the Mitchell Report of 30 April 2001, Tenet Plan of June 2001,<sup>760</sup> and the peace initiative of the Saudi Crown Prince Abdullah in 2001. The initiative, adopted by the Arab League summit in Beirut on 27 March 2001, provided for a complete Israeli pullout from WBGS in return for normalized diplomatic relations between Arab states and Israel.<sup>761</sup>

Nevertheless, the continued attacks of Hamas and Islamic Jihad against Israeli civilians- despite, and because of, Israeli security measures, including excessive and lethal use of force against Palestinians - left little room for Arafat to manoeuvre. More importantly, they promoted frustration among Israelis in a manner that enabled Sharon to win the premiership from Barak.

Sharon's rise to power put an end to the Oslo Accords and left the whole peace process without any terms of reference. This fact was manifested on the ground with Sharon's siege of Arafat and with his total refusal to deal with Arafat as a peace partner. Ironically, Sharon's position towards Arafat was the one upon which Bush's administration formulated its vision of peace in the Middle East, as we have seen above. In other words, Bush and his administration adopted the same position as Sharon, rejecting Arafat as a peace partner. But unlike Sharon, the US administration expressed its opposition to Arafat by besieging him politically, under the pretext of reform, which was used as an instrument to diminish Arafat's authority in favour of more pliable elite, ready to surrender the Palestinian national aspirations for independence, self-determination and return.

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<sup>759</sup> Grinberg op.cit., Pp.47-51.

<sup>760</sup> The *Sharm El Sheikh* summit, convened under US auspice, searched for possible means to halt violence immediately. The summit proposed a “fact-finding committee” to investigate the reason for the unrest. The committee concluded its report on 30 April 2001. The report, known also as Mitchell Report (after the name of the committee's head), called for an immediate halt of violence, and resumption of security cooperation. The same applied to the Tenet Plan (George Tenet was the CIA director) which calls for the immediate cessation of violence, and the resumption of security cooperation. For Michael Report and Tenet Plan see <<http://www.al-bab.com/arab/docs/pal>>

<sup>761</sup> The full text of the initiative is cited in *Middle East Policy*. Vol. IX, no.2, June 2002, Pp.25-26.

## ***Reform: Arafat's Bow to the "Winds"***

In early 2003, a peace plan for settling the Israeli-Palestinian conflict was debated by members of the Quartet Committee, comprised of the US, the European Union, Russia, and the United Nations. The plan, which would come to be known as the "Road Map", was formally submitted to Israelis and Palestinians on 30 April 2003<sup>762</sup> and proposed a three-phase settlement of the conflict. Each phase was marked by a particular timeframe and placed reciprocal obligations on both Israelis and Palestinians. The movement from one phase to the next depended on both parties' success of meeting the obligations placed on them by the assigned phase. The extent of each party's success in meeting its obligations in the assigned phase was to be decided by the Quartet Committee. The plan's three phases and commitments for each party were as follows:

### **Phase I (February-May 2003)**

#### *Palestinian Responsibilities*

- Declaring an unequivocal end to violence and terrorism, arresting all groups attacking Israelis anywhere, and resuming security cooperation with Israel.
- Rebuilding the security apparatus and collecting illegal weapons.
- Consolidating all security forces into three forces reporting to the minister of interior.
- Introducing a package of reform measures, including a new constitution for Palestinian statehood, presidential and parliamentary elections, and premiership post, alongside an effective bureaucratic system.

#### *Israeli Responsibilities*

- Withdrawing from all Palestinian cities, towns and villages occupied on 28 September 2000.

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<sup>762</sup> The full text of the "Road Map" Plan is cited on <<http://www.al-bab.com/arab/docs/pal/roadmap2003.htm>>

- Freezing settlement activities and dismantling settlements erected since March 2003, conditioned upon the progress of security cooperation.
- Taking measures to improve the humanitarian situation of Palestinians, including lifting curfews and restrictions on the movement of persons and goods.

### **Phase II (June-December 2003)**

In this phase, efforts were to be exerted with the aim of paving the way for an independent Palestinian state with provisional borders and attributes of sovereignty. All of this was conditioned on the success of Palestinians to meet the obligations placed upon them in phase I: to build a functioning democracy, to fight terror, to end all forms of violence, to rebuild their security apparatus, to hold presidential and parliamentary elections, and to appoint a prime minister. Could the Palestinians meet these obligations? An international conference will be convened by the Quartet Committee, in consultation with the concerned parties, about the Palestinian economy's recovery after the Palestinian elections.

### **Phase III (2004-2005)**

The completion of phases I and II would leave Palestinians owning their own sustainable political institutions and economic systems. Phase III, accordingly, proposed a second international peace conference with the aim of arriving at a comprehensive permanent status agreement that would end the Israeli-Palestinian conflict in 2005 through a settlement negotiated between the parties, based on UN Security Council resolutions 242 and 338.

The "Road Map" was an international declaration of the death of the Oslo process and its terms of reference, and the birth of new terms of reference. However, the plan was inspired by the same philosophy as the Oslo process, namely, a phases-oriented settlement to the conflict. Furthermore, and as usual, the plan placed huge commitments on Palestinians while making Israel's obligations conditional on the satisfaction of Palestinians' commitments.

More importantly, the plan lacked any “enforcement mechanisms”. In other words, it is not clear whether the Quartet Committee had the power to force both parties to implement the plan, notwithstanding its power to decide the extent to which both parties have succeeded in meeting their obligations. The role of the Quartet Committee was, therefore, a supervisory one, without any power to enforce the plan’s clauses. This left the future of the plan subject to balance of power logic. Thus, we are talking about the same philosophy of Oslo process; the balance of power. However, Arafat was in no position to turn the plan down. Two factors made Arafat unable to turn the plan down:

- The US administration's preparation for an invasion of Iraq gave rise to a strong belief in a possible second Gulf war. Drawing on this belief, Arafat was concerned about the future of the Palestinian cause in the event of a Gulf war. An outbreak of war would mean the US administration’s full attention would be on the Gulf region rather than on the Israeli-Palestinian conflict. This would have two interrelated negative ramifications on Palestinians: it would reduce international concern for Palestinian suffering at the hands of Israel and, at the same time, increase concern over the developments of the Gulf war. Accordingly, Israel would have a free hand to escalate its measures against Palestinians beyond international scrutiny. To counter this possibility, Arafat intended to jump-start the peace process by accepting the “Road Map” notwithstanding the humiliating conditions included therein.
- Arafat's belief was reinforced by the Arab and European failure to pressure Israel to stop its excessive and lethal use of force against Palestinians. Coupled with Sharon's siege of Arafat, and the continued economic and social suffering of Palestinians resulting from the Israeli measures, this failure was the second reason that prompted Arafat’s acceptance of the “Road Map”.

As part of his acceptance of the “Road Map” plan, Arafat announced his decision to appoint a prime minister on 14 February 2003.<sup>763</sup> This decision was intended to transform the Palestinian political system from a presidential one (discussed in chapter III) to a presidential parliamentary system. However, this intended

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<sup>763</sup> *Al-Ayyam & Al Hayat Al-Jadeeda* on 15 February 2003.

transformation lacked any constitutional recourse. In other words, there was nothing in the Basic Law, the Palestinian constitution during the interim period, which provided for a premiership.

In fact, Arafat was the one who formed the cabinet, presided over its meetings, approved/disapproved ministers' resignations, held ministers to account, and dismissed them. Though the PLC enjoyed the right, in principle, to hold ministers to account, the *status quo* showed that Arafat was the only one who could do so in fact (as we have seen in the chapters III, Pp. 156-168, and IV, P. 183). Palestinians, therefore, had to amend their constitution (the Basic Law) to accommodate the new developments.

On 8 March 2003, Arafat appointed Mohammoud Abbas (better known as Abu Mazen), the secretary of PLO's executive committee, to the premiership and called the PLC for an emergency session to approve the creation of the position and the appointment. Accordingly, the PLC was convened on 10 March, and added new articles to the Basic Law clarifying the prime minister's powers.

According to these articles, the prime minister would be appointed by the PA president. The prime minister became empowered to form the cabinet with a number of ministers not exceeding 24 (in the past, the Basic Law provided for a number of ministers not exceeding 19, see chapter IV, P. 183) and would be required to do so within three weeks from the date of his selection by the PA president. Furthermore, the prime minister became empowered to call cabinet meetings, to preside over these meetings, and to dismiss and hold to account any minister in his cabinet. He, together with his cabinet, became accountable to the PLC who had the right to extend/withdraw confidence in him, his cabinet or any minister in his cabinet. If the PLC withdrew confidence in the prime minister or the cabinet, the PA president would be asked to appoint a new prime minister for the PLC's approval within a period not exceeding three weeks from the date of the PLC's withdrawal of confidence in the former prime minister or cabinet.

While the prime minister and his cabinet became accountable to the PLC, only the prime minister became accountable to the PA president who would

approve/disapprove his resignation. As far as the ministers are concerned, only the prime minister would have the right to approve/disapprove their resignation. The PA president would no longer have power in this connection.

Nevertheless, the PA president continued to enjoy the right to propose draft laws for the PLC's approval and to ask the prime minister to call a cabinet meeting when one was necessary. More importantly, while the prime minister became responsible for maintaining order and public security, following up implementation of laws, proposing annual budgets, proposing draft laws, supervising foreign policy, appointing personnel to senior posts in the PA civil apparatus, and creating new public institutions, he lacked clear authority over security forces, which remain under the control of the PA president who assumes the post of commander-in-chief.<sup>764</sup>

Thus, the Basic Law left unclear who controlled the security forces. While the prime minister (or the minister of interior) became empowered to maintain order and security, which implies that these forces should be at his disposal and that the heads of these forces should be appointed by him, Arafat remained the one who controlled these forces and appointed their heads. On 18 March 2003, Arafat ratified the Basic Law with its new amendments<sup>765</sup> and consequently laid down the legal foundation of a presidential parliamentary system. Mohammoud Abbas, therefore, was legally obliged to start forming his cabinet.

To form the cabinet, Abbas had to overcome huge difficulties. Abbas, very well known for his condemnation of violence against civilians (Israelis and Palestinians alike), is considered to figure among the wise and moderate old guards of the PLO. He stands against suicide bombings of Israeli civilians and against the militarization of the resistance against the occupation.<sup>766</sup> Abbas's position in this regard clashes with the strategy of the main Palestinian factions like Hamas, Islamic Jihad and PFLP, all of which support the militarization of the resistance against the occupation and oppose

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<sup>764</sup> The amendments of the Basic Law were published by *Al-Ayyam* on 8, 10 March, *Al-Hayat A - Jadeeda & Al Quds* on 11 March 2003.

<sup>765</sup> *Al-Ayyam* on 19 March 2003.

<sup>766</sup> See for example *Al-Ayyam daily's* interview with Abbas on 16 February 2003.



the “Road Map” plan. This fact made it difficult for Abbas to reach an agreed national formula with these factions and, therefore, to form a national unity government.<sup>767</sup>

Abbas encountered difficulties not only with opposition factions, but also with PA President Arafat. On 13 April 2003, Abbas proposed his cabinet, naming himself as minister of interior.<sup>768</sup> For Abbas, the post of minister of interior, in line with the Road Map, implied full authority over the eleven Palestinian security forces. This was strongly opposed by Arafat who wanted these forces under the command of a Palestinian national security council with himself in chair.

The conflict between the two men was not confined to this issue, but extended to include the post of minister of state for security affairs. While Abbas proposed Muhammad Dahaln, the former chief of the Gaza Strip Preventive Security Forces, for this post, Arafat opposed this proposal. Dahaln, a very well known loyalist to Arafat during the interim period, was considered one of the few Palestinian political figures to win Israel's favour. CNN quoted the Israeli Prime Minister's spokesman, Rannan Gissin, on 24 April 2003 as saying that "Dahaln is a man of action. He is not going to be a marionette for Arafat. It is not surprising that Arafat has been opposing him."

Not only did Dahaln win Israel's favour, he also built a power centre (in his function as the former chief of the Gaza Strip Preventive Security Forces) and gained the loyalty of thousands of young Gazan militants, far from Arafat's satellite of control. This fact enabled Dahaln to turn on Arafat and to become one of Arafat's most prominent critics during the *Al-Aqsa intifada*.

These two issues (Dahaln and the security authorities) left the future of the government uncertain and almost brought about the premature demise of Abbas' endeavour to form his own government. However, international pressure (mainly from the European Union) coupled with local pressure (mainly from the PLC) forced both men to reach an agreement, assigning the post of minister of state for security affairs to Dahaln (who, with the minister of interior, assumes direct responsibility for

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<sup>767</sup> *Al-Ayyam*, and *Al-Hayat Al-Jadeeda* on 31 March 2003.

<sup>768</sup> *Al-Ayyam* on 14 April 2003.

the Preventive Security Forces, Emergency Services and Rescue, and Civil Police) while leaving Arafat as commander-in-chief of the security forces (who assumes direct responsibility for General Intelligence, Military Intelligence, Public Security Forces, Presidential Security, Military Police, Air Guard, and Special Security).<sup>769</sup> Arafat's and Abbas' deal enabled the PLC to exercise its authority and to extend confidence in the Abbas government with 51 members in favour, 18 in opposition and 3 abstentions on 29 April 2003.<sup>770</sup>

### ***Abbas' Government: Between the Palestinian and Israeli Traps***

The PLC's vote of confidence in Abbas' government, in a sense, put it on trial. The challenge was twofold: affecting political reform and ending the violence. In other words, Abbas' government was asked to bring about structural adjustments in the financial, security, judicial, and administrative sectors, whilst simultaneously ending the violence, and disarming the various factions.

While Abbas' government was to be tried mainly by Palestinians (as far as the first matter was concerned), Israel, backed by the US, was to try Abbas and his government on the second matter. Aware of these facts, Abbas initiated immediate reform measures. In this connection, Abbas' government merged approximately 78 independent commissions and administrations into the ministries to eliminate duplication among the roles and responsibilities of these commissions and administrations.<sup>771</sup>

More important was Abbas' decision to expand the "ministerial committee for reform and development" formed by Arafat in 2002. Initially, upon its formation, the committee comprised ministers only, but under Abbas' government, other ministers, PLC members, and civil society and private sector representatives were added. The most notable of these ministers were Salam Fayyad, Nabil Kassis, Ziad Abu Amr and Ghassan El Khatib. With the exception of Fayyad, the three remaining ministers are

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<sup>769</sup> For the structure of Abbas government see Ibid & *Al-Hayat Al-Jadeeda* on 23 April 2003. See also the Presidential Decree no.7 for 2003 with relation to the government on 29 April 2003. In *Al Waqaea'*. The formal gazette of PA, 10<sup>th</sup> year, no.46, 16/8/2003.

<sup>770</sup> *Al-Ayyam* & *Al-Hayat Al-Jadeeda* on 30 April 2003.

<sup>771</sup> *Al-Hayyat* on 19 July 2003.

former professors at the prestigious and highly regarded Bir Zeit University, in the West Bank. The most notable PLC members of the committee were Hanan Ashrawi, a very well known advocate of reform, and Azmi al-Shu'abyi, an advocate of financial transparency (see chapter IV). Furthermore, the committee included Raji El-Sourani and Mustafa El Barghuti, both human rights activists.<sup>772</sup>

The composition of the committee was a clear indication of Abbas' intention to initiate comprehensive reform touching every sector of society: political, legal, administrative, financial, human rights, and economic. Toward this end, Abbas empowered the committee to set down the intended reform plan but at same time, left a free hand for the Minister of Finance Fayyad to adopt any urgent reform measures.

Fayyad, considered an independent in the political sense, and a well known financial expert, was born in Nablus in 1952 and holds a Ph.D. in Economics from the University of Texas, in Austin. In the period of 1987-1992, he served as assistant to the Executive Director of the IMF before serving as advisor to the IMF Executive Director in the period of 1992-1995. In the period of 1996-2002, he served as regional director of the Arab Bank, before resigning his post to be appointed by Arafat as the minister of finance in June 2002.<sup>773</sup>

Since his appointment to the post of minister of finance, Fayyad concluded a number of decisions aimed at improving the financial conditions of PA civil servants and security personnel. Among these was the decision to cancel the deduction of 5% from the salaries of the PA civil servants and security personnel. This 5%, said to be deducted to support the jobless Palestinians and families of martyrs, was subject to a complaint by PA civil servants and security personnel, particularly in light of the low remuneration of these servants/personnel, which did not exceed US\$274 per month and which decreases to US\$135 per month when unpaid family members are taken into account.<sup>774</sup>

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<sup>772</sup> *Al-Ayyam* on 7 July 2003.

<sup>773</sup> Fayyad Profile is cited on the official webpage of PA <<http://www.pna.gov.ps>>

<sup>774</sup> Office of the Special Coordinator in the Occupied Territories. *The West Bank and Gaza Strip Private Economy*, op.cit., P.14.

Furthermore, all security personnel were asked to draw their salaries from Palestinian banks and not from their commanders as was the case before. This decision was taken to bring the salaries of the security forces (with the exception of salaries of *Amn Al Ri'asa*, or Presidential Security, which remained in an independent budget) under the supervision of the ministry of finance and, therefore, to unify the finances of the PA in the account of the general treasury.<sup>775</sup> Under Abbas' government, these decisions were executed, and the Palestinian civil servants and security personnel, starting with the pay period of July 2003, enjoyed the 5% which had been deducted from their salaries in the past. As well, the security personnel started to draw their salaries from the banks.<sup>776</sup>

Moreover, Fayyad, supported by Abbas' government, managed to address many of the negative features of the Palestinian bureaucracy, like irrational appointments (for these appointments see chapter V). During Fayyad's term, no one was permitted to be enrolled on the PA's payroll unless he was recruited through institutionalised recruitment methods according to clearly defined job descriptions and task specifications. In 2003, for instance, at least 800 Palestinian personnel were dismissed from their jobs after it was discovered that they were appointed through illegal means.<sup>777</sup>

Of vital importance was Fayyad's "war" against the officially sanctioned monopolies. As we have mentioned in chapter III (Pp. 159-160), these monopolies assume control over the basic products like wheat, fuel, cement and so forth. During Fayyad's term, these monopolies were brought under the supervision of the ministry of finance. This fact manifested itself institutionally, according to Farid Ghanam, Director-General of public finance, in the evolution of the Palestinian Investment Fund (PIF). The PIF fell under the ministry of finance, was run by a seven-member board (including the minister of finance, minister of economics and representatives of the private sector), supervised all PA merchandise and investments, and managed these activities

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<sup>775</sup> *Al-Ayyam & Al-Quds* on 13 April 2003.

<sup>776</sup> See *Al-Quds* on 22 June 2003.

<sup>777</sup> *Al-Ayyam, Al-Quds, Al-Hayat Al-Jadeeda* on 8 July 2003.

transparently.<sup>778</sup> In this sense, the revenue of the officially sanctioned monopolies had been connected to the ministry central auditing system.<sup>779</sup>

Having enjoyed authority over these monopolies, Fayyad cancelled the high fees imposed by these monopolies on any private company which sought to import these products (fuel for example) to WBGS.<sup>780</sup> This high fee prevented any private company from moving into the market and, therefore, enabled these monopolies to set whatever prices they wanted for the products. In others words, due to these monopolies Palestinians were denied the opportunity to enjoy free market privileges and, therefore, were subjected to grafts (see chapter III, Pp. 159-160).

Fayyad's cancellation of these fees reflected his awareness of the free market as an arena of fairness and justice, and as an efficient instrument that ensures people with good and services at minimum prices. Due to his decision, the quantities of benzene sold to the public increased by nearly 83% in the period of May (when the ministry assumed supervision on these monopolies) to July 2003. In addition, the quantities of diesel sold shifted by about 228% during the same period. This shifted PA revenue from taxes on fuel by about 56% in the same period, despite the low price of fuel, when compared to the period before May 2003.<sup>781</sup>

This increase in PA revenue from taxes on fuel took place simultaneously with an increase in PA revenue resulting from Fayyad's rational appointment policy, which eliminated a high portion of the PA's inefficient spending. Together with the other collected fees and taxes (income taxes for example), the monthly average PA revenue from taxes and fees is estimated at US\$17 million during the first half of 2003. This sum, alongside the estimated Israeli monthly transfer in the same period (US\$31 million), monthly donor aid (US\$19 million), and some US\$28 million formerly frozen by Israel but relinquished to the PA in the first half of 2003, enabled the PA to

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<sup>778</sup> Interview with Farid Ghanam, Director-General of Public Finance. Gaza: Ministry of Finance, 15 September 2004.

<sup>779</sup> Ibid.

<sup>780</sup> The Petroleum General Commission, for instance, used to impose fees of 20% on fuel imported to Gaza Strip, and 30% on fuel imported to West Bank. See *Al-Ayyam*, *Al-Quds*, and *Al-Hayat Al-Jadeeda*, on 16 July 2003.

<sup>781</sup> *Al-Quds* on 11 August 2003.

cover its monthly expenditures estimated at US\$93 million for the first half of 2003.<sup>782</sup>

Nevertheless, Fayyad's reformist revolution did not address all the negative features of the Palestinian administration, among which were nepotism & favouritism. These two features remained serious problems in spite of Fayyad's endeavours to eliminate them. For instance, while I was leaving the ministry of finance after having interviewed Ghanam, I met with tens of Palestinian graduates who were marching before the ministry headquarters in protest against the ministry's failure to employ them. Some of them told me that they had been looking for a job for over three years, and not one of the PA officials was prepared to help them. When I asked them how PA officials failed to help them, all of them answered "because we do have no connections with high ranking officials or personnel occupying senior posts in PA civil and security apparatus." Surprisingly, these graduates were chanting, "Oh, our Brother Arafat, come and end our suffering. Oh, our Brother Arafat, they (PA officials) used your siege to enrich themselves at our expense."<sup>783</sup>

Paradoxically, the person on whom the graduates were calling to end their suffering and to streamline the bureaucracy was the same one who blocked Abbas' endeavours to reform PA civil and security apparatus. As we have seen above, Fayyad succeeded in initiating some reform measures, and his success was partly attributable to Abbas who supported Fayyad in these endeavours. As a result, Palestinian popular support for Abbas grew, with an April 2003 poll showing that 28.7% of Palestinians believed that Abbas would continue with the reform process as against 17.4% who believed the contrary.<sup>784</sup> Abbas' growing legitimacy in the eyes of Palestinians coincided with his growing legitimacy in the eyes of the European Union and the US, both of which expressed sympathy with him and satisfaction with his appointment to the premiership.<sup>785</sup>

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<sup>782</sup> *Al-Hayat Al-Jadeeda* on 11 August 2003.

<sup>783</sup> Spot interview with some Palestinian graduates, Gaza: before the Ministry of Finance headquarter, 15 September 2004.

<sup>784</sup> See JMCC's poll no.48, April 2003. Online <<http://www.jmcc.org>>

<sup>785</sup> See *Al-Hayat Al-Jadeeda* on 8,14 March & *Al-Ayyam* on 1 April 2003.

Abbas' dual legitimacy constituted a serious threat to Arafat's status in WBGS and in the international arena, which should be understood in light of Sharon's siege on Arafat and the resulting deterioration of Arafat's influence over the "rules of the game" in the WBGS and over regional and international actors. Thus, Abbas threatened to build a strong power centre away from Arafat's sphere of control and, consequently, to emerge as a *de-facto* alternative to Arafat.

To combat this possibility - and to spoil Sharon's plan to remove him from the political scene - Arafat tried to weaken Abbas at the internal level in order to offset his status at the international level. As Hani al-Masri, a Palestinian political analyst, emphasized, "Arafat has deliberately ... prevented the emergence of an alternative Palestinian political leadership to ward off Sharon's decision to remove him."<sup>786</sup>

The means of achieving this end was to block Abbas' reforms. The affairs of the "Authority of Aviation" and the "*Diwan El M'wadfeen*" (the Personnel Agency) of July and August, respectively, may substantiate our analysis. In July 2003, Arafat appointed Fayez Zaydan as Minister of the Authority of Aviation and Suliman Haleeb as Deputy-Minister.<sup>787</sup> As discussed above, only the prime minister, by virtue of the amendments to the Basic Law, was empowered to appoint personnel to senior posts in the PA civil apparatus and to create new public institutions.

In this sense, Arafat enjoyed no legal right to make the mentioned appointments, and only Abbas or someone on his behalf, in this case the minister of transportation, had any such right. Bearing in mind that the Authority of Aviation was merged with the ministry of transportation, in line with Abbas's policy of merging commissions and administrations with similar duties to the ministries, it can be concluded that Arafat's appointments meant that there would be two aviation authorities: one connected to the minister of transportation and the other to Arafat.

In other words, there would be one under the cabinet and another under the president. This, of course, would lead to an overlap of duties, prevent a clear demarcation of roles and consequently turn the clock back to the administrative anarchy that marked

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<sup>786</sup> Quoted in Usher. "Israel, Arafat, and the US occupation", op.cit, P.11.

<sup>787</sup> See *Al-Risalah* on 24 July 2003.

Palestinian bureaucracy. In turn, the administrative anarchy would bring about weakness in Abbas' government since its legitimacy derived mainly from its success in initiating reform measures.

The *Diwan El M'wadfeen* affair is another case showing how Arafat deliberately sought to weaken Abbas' government by blocking reform. On 27 August 2003, Abbas' government decided to appoint Sakhr Basiso, Secretary of the Revolutionary Council of Fatah, as General Director of the *Diwan El M'wadfeen* instead of Abdel Aziz Abu Shari'a, an Arafat appointee and loyalist.<sup>788</sup> In fact, Abu Shari'a had assumed the post of general director of the *Diwan El M'wadfeen* since its foundation in 1994. In this sense, he oversaw all administrative issues of PA civil servants, as the *Diwan El M'wadfeen* is empowered to manage the administrative issues of PA civil servants, as shown in chapter V (Pp. 219-220). Because of that, Abu Shari'a was regarded by Palestinians as being responsible for many illegal appointments in the PA bureaucracy. In this sense, Abbas' government considered its decision as a reform measure.

On 30 August, Basiso went to his office to assume his responsibilities as general director of the *Diwan El M'wadfeen*. There he encountered tens of young armed men and was forced to leave the place under the threat of violence. The armed men justified their act as one in support of Arafat's decision to keep Abu Shari'a in the post. Consequently, Abu Shari'a remained in his post, and the decision of Abbas' government was not executed.<sup>789</sup> The event shows how the Abbas government, notwithstanding the authority it enjoyed, lacked the power to implement its decisions mainly due to Arafat's continued control over the source of coercion - an issue that remained most controversial between Abbas' government and Arafat during the Abbas government's short term (April-September 2003).

Apart from Arafat's attempts to abrogate his reformist measures, Abbas' whole reform strategy was conditioned on his ability to maintain the unilateral cease-fire with the opposition factions. In June 2003, Hamas and Islamic Jihad endorsed Abbas' demand for a unilateral cessation of hostilities against Israel. The cease-fire included the

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<sup>788</sup> *Al-Ayyam* on 28 August 2003.

<sup>789</sup> *Al-Hayat Al-Jadeeda* on 31 August 2003.



cessation of suicide operations and exchanges of fire with Israeli forces. From it, Abbas sought to pave the way for a multilateral truce with Sharon, ending the extrajudicial killings of Palestinians and Israeli incursions in the PA ruled areas, and lifting the closures. In turn, it was hoped that this would promote the secure environment necessary to resume peace talks according to the Road Map.

However, Israel's determination to maintain its military operations, including its incursions and extrajudicial killings, encouraged a Hamas suicide bomber to blow up a bus in Jerusalem, killing 22 Israelis on 19 August 2003. Two days later, Sharon's government avenged the killing of the 22 Israelis by assassinating the Hamas political leader, Ismail Abu Shanab. These two events signified a *de-facto* collapse of the cease-fire even before the Sharon government declared a formal end to the cease-fire and vowed to continue the "all-out-war" against Hamas on 1 September.<sup>790</sup> With this declaration, Abbas had no alternative but to resign his post and to admit his failure on 6 September 2003, and to abandon all efforts of ministerial committee reform and development.

Addressing the PLC, Abbas clarified the main reasons for his resignation, pointing to the building of the Separation Wall, which, according to Abbas, "[blocked] the road of any progress in the peace process. Israel practises the most horrible oppression against our people, land and national rights. Israel failed to meet her commitments in the Road Map." Abbas mentioned internal obstacles as well, emphasizing the incitement to which his government was subjected and the little support he and his government enjoyed: "I have done my utmost to bring about certain political achievements. Nevertheless, it seems that the issue is not of a political achievement, rather, of the political determination of some to block this government's success."<sup>791</sup>

### ***The "Political Map" of Sharon: Israel's Separation Wall***

As we have seen, the Road Map sought a comprehensive peace settlement based on a two states solution under international supervision. It alarmed Sharon who realized that Israel would ultimately have to act in accordance with the plan and freeze its

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<sup>790</sup> Graham Usher. "Dead End". In *Middle East International*. No. 708, 12 September 2003.

<sup>791</sup> *Al-Ayyam, Al-Quds, & Al-Hayat Al Jadeeda* on 7 September 2003

settlement activities in the OPT as stipulated by the plan. To combat this possibility, new facts on the ground would have to be created to ensure Israel's control over Jewish settlements regardless of the type of future peace settlement with Palestinians, the bantustanization of any future Palestinian state, the fragmentation of Palestinian society and economy, and if possible, the expulsion of a majority of Palestinians to neighbouring Arab countries. These were - and continue to be - the main features of Sharon's political map. Sharon primary instrument for delineation of this map is the controversial Israeli "Separation Wall" (called the "Security Fence" by Israelis).

The idea for the "Separation Wall" must be credited to the former Israeli Prime Minister Yitzhak Rabin whose 1992 electoral victory was traceable to his pre-election comments after the stabbing of an Israeli by a Palestinian in Jerusalem. At that time, Rabin declared that Israel must "take Gaza out of Tel Aviv."<sup>792</sup> This approach led him to sign the Oslo accords with the PLO. Later, in 1994, Rabin formed a ministerial committee to set down a plan for separating Palestinians in the PA-controlled areas from Israelis. Rabin's decision followed the escalation of suicide bombings by Hamas and Islamic Jihad against Israelis. A fence, therefore, was erected around Gaza to coincide with the handover of control there to the PA under the Oslo accords. However, no fence was erected in the West Bank, and the findings of the ministerial committee came to naught due to Rabin's assassination.<sup>793</sup>

Shimon Peres, Rabin's successor, was inspired by his dream of a "New Middle East" founded on economic integration rather than separation, and chose not to move in the direction Rabin had. Likud's hawkish Benjamin Netanyahu, who followed Peres, did the same but for a very different reason: to appease the settlers who strongly opposed the idea of the wall.<sup>794</sup> But with the failure of Camp David II and the outbreak of the *Al-Aqsa intifada*, the idea was seriously revived by Ehud Barak, who succeeded Netanyahu in the premiership. During Barak's term, the idea was embodied in a plan for the construction of a barrier stretching from Jenin in the northern West Bank to

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<sup>792</sup> David Makovsky, "How to Build A Fence". Online <http://www.washingtoninstitute.org/media/makovsky/makovsky020504.pdf>. From March/April 2004 issue of Foreign Affairs.

<sup>793</sup> Ibid.

<sup>794</sup> Ibid.

Latrun in the south, in November 2000. However, some financial and political factors froze the plan.<sup>795</sup>

With the rise of Sharon to office in 2001, Barak's plan was invoked and modified before the Israeli cabinet approved it in the form of the "Separation Wall" in July 2001 and started executing the first phase (phase "A") in June 2002.<sup>796</sup> This phase included the building of a segment of the wall that stretches from the village of Salam in the north of Jenin to El-Qana south of Qalqilya, in addition to a 22 km segment around East Jerusalem. The second phase, or phase "B", endorsed by the cabinet in January 2003, included the building of 45 km of wall along the north of the West Bank. The third and forth phases, phases "C" and "D", announced in March 2003, cut halfway into the West Bank to include the main settlement blocs (like Keddumin and Ariel settlements) on the Israeli side while simultaneously fragmenting the largest portion of Bethlehem and Hebron.<sup>797</sup>

The completion of these four phases will provide a wall with a length of 360 km. With the wall that is planned for the Jordan Valley, which will place all the fertile land on the Israeli side, the total length of the wall will increase to 700 km and be three times as long as the Berlin Wall.<sup>798</sup> According to the World Bank's estimation, the wall will enable Israel to annex around 10% of the West Bank, leaving only 42% of the West Bank, in the form of isolated bantustans, under Palestinian control.<sup>799</sup> Furthermore, around 400,000 Palestinians will be displaced from their land, and nearly a third of the West Bank population will lose access to their cultivatable land. This will enable Israel to annex *de facto* 129 out of an estimated 141 settlements in the West Bank (including East Jerusalem), and incorporate nearly 90% of the West Bank settlers, estimated at 400,000.<sup>800</sup>

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<sup>795</sup> Peter Lagerquist. "Fencing the Last Sky: Excavating Palestine After Israel's "Separation Wall". In *Journal of Palestine Studies*. Vol. XXXIII, No.2 (Winter 2004), Pp.6-7.

<sup>796</sup> Ibid., P.7

<sup>797</sup> Ibid., Pp.7-8.

<sup>798</sup> According Al-Haq institute for Human Rights <[http://www.alhaq.org/alhaq\\_1.htm](http://www.alhaq.org/alhaq_1.htm)>

<sup>799</sup> Noam Chomsky. "A Wall as a Weapon". Online [http://www.palestinemonitor.org/Special%20Section/Closure/wall\\_as\\_weapon.htm](http://www.palestinemonitor.org/Special%20Section/Closure/wall_as_weapon.htm) from 23 February, 2004 New York Times.

<sup>800</sup> Lagerquist op.cit., P.13.

For example, phase “A”, declared completed in July 2003, had already expropriated 123,000 dunums (constituting 2% of the West Bank), displaced some 12,000 Palestinians, and denied the population of 115 Palestinian towns and villages access to its cultivated land.<sup>801</sup> In the event that Israel continues construction of the wall according to its plan, it is expected that the 42% of the West Bank remaining under Palestinian control will be divided into three isolated bantustans, together with a disconnected forth in Gaza which is already surrounded by a fence,<sup>802</sup> thereby rendering talk about a future viable Palestinian state devoid of any meaning.

All the indicators show that Sharon is determined to keep constructing the wall according to the prescribed phases. In November 2003, he declared that should there be no progress with the Road Map, he “would not rule out” proceeding “unilaterally”. He would complete the construction of the wall in the West Bank, “redeploy” the army to more “defensible borders” and perhaps remove a dozen or so settlements that even the wall can not secure.<sup>803</sup>

Sharon’s statements laid down the main principles of the Gaza disengagement plan, as we will see later. They were delivered in response to an Islamic Jihad suicide bombing that left 19 Israelis dead and tens of others injured on 4 October 2003. The bombing, committed in Haifa to avenge the killing of nearly 20 Palestinian activists and civilians three weeks prior,<sup>804</sup> happened just a month after Arafat’s appointment of Ahmad Qrieħ (better known as Abu Ala’) to the premiership after Abbas resigned. Thus, the bombing put Qrieħ in a difficult position, particularly after Israel blamed the PA for its failure to halt suicide bombings and the Israeli cabinet threatened to expel Arafat from the territories. A state of emergency was announced, and Qrieħ reduced his cabinet to nine ministers<sup>805</sup> in order to deal with Israeli threats against Arafat.

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<sup>801</sup> Figures from <<http://www.palestinehistory.com/wall.htm>>

<sup>802</sup> Graham Usher. “The End of the Road”. In *Middle East International*. No.716, 9 January 2004.

<sup>803</sup> Graham Usher. “Advantage of Sharon”. In *Ibid.* No. 715, 19 December 2003..

<sup>804</sup> Khalid Amayreh. “State of Emergency”. In *Ibid.*, No. 710, 10 October 2003.

<sup>805</sup> *Al-Ayyam & Al-Hayat Al Jadeeda* on 8, 9, 10 October 2003.

### ***QrieH's Government: In Line with Arafat's Will***

As noted above, following Abbas' resignation from the premiership, Arafat appointed QrieH, who resigned his post as PLC Speaker. Like Abbas, QrieH was asked to form his cabinet within three weeks of his appointment. Unlike Abbas, QrieH seemed unwilling to commit the same mistakes as Abbas. From the beginning, QrieH threw the ball into the Quartet's field when he asserted that the cessation of violence and suicide bombings would be conditional on a cease-fire agreement "to be observed by the concerned parties",<sup>806</sup> including the Quartet members (the US, the UN, Russia, and the EU). In so doing, QrieH sought to pass the initiative to the Quartet in the hope of upgrading its supervisory role to one of enforcement.

In the meanwhile, QrieH seemed unwilling to challenge Arafat's grip over security forces when he tolerated the foundation of the Palestinian National Security Council (PNSC) as the umbrella under which all security forces were to be gathered. Empowered to establish an overall security policy, the PNSC was formed of the PA president (Arafat) as chair, the prime minister, the minister of finance, the minister of interior, a member of the PLO executive committee, a member of the PLC, heads of the National Security Force (*Qwaat Al Amn Al Watani*) in the West Bank and Gaza Strip, the head of general intelligence (*El Mukhabbarat al-Amma*), the head of military intelligence, in addition to a number of security advisors.<sup>807</sup>

QrieH bowed to Arafat's wishes to control the security forces and to monopolize the means of coercion. In fact, QrieH sought to avoid a possible threat to his political career. At the same time, he sought to demonstrate that he was more loyal to Arafat than to the US or Israel in order to bolster his legitimacy in the eyes of Palestinians.

QrieH's loyalty to Arafat was clear when he dismissed Dahaln, who had already declared that he would not serve in any government but Abbas',<sup>808</sup> from his cabinet, which he proposed to form with a Fatah majority after Islamic Jihad, Hamas and

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<sup>806</sup> *Al-Hayat Al-Jadeeda* on 9 September 2003.

<sup>807</sup> *Ibid* on 12 September 2003.

<sup>808</sup> *Al-Ayyam* on 8 September 2003.

PFLP once again refused to participate in any government under the Road Map.<sup>809</sup> Though non-Fatah members were initially proposed for Qrieh's cabinet,<sup>810</sup> Qrieh quickly excluded them from his cabinet and confined it to nine ministers (originally it included 24), in line with Arafat's preference for a Fatah-dominated emergency cabinet primed to address Israel's threats against him.

Four of the nine ministers had served in Abbas' cabinet (Nabil Sha'at, Naim Abu El Hummus, Sa'eb Erekat and Salam Fayyad). However, with the exception of Fayyad, the remaining three were affiliated with Fatah and known Arafat loyalists. The others, like Nasser Youssef (Minister of Interior), Abdel El Rahman Hamd (Minister of Housing and Public Works), Jamal El Shubki (Minister of Local Government) and Jawad El Tibi (Minister of Health), were newly appointed and also affiliated with Fatah.<sup>811</sup> On 7 October 2003, Qrieh and seven other ministers of the emergency cabinet were sworn in before Arafat in accordance with the Basic Law, which empowered the PA president to declare a state of emergency without PLC approval for one month, after which the approval of two thirds of PLC members was required (see chapter IV, P. 183).<sup>812</sup>

However, minister of interior Nasser Youssef took a different position, demanding that the cabinet be approved by the PLC before being sworn in before Arafat. As a result, Youssef did not take the oath before Arafat,<sup>813</sup> who in turn smeared Youssef with the same tar as Dahaln. "He wants to work with the Americans and the Israelis against the interest of our people," Arafat told Fatah officials in Ramallah when he was asked about his sudden swing in opinion about Youssef after his previous acceptance of Youssef as minister of interior.<sup>814</sup> Quickly, Qrieh turned against Youssef and dismissed him, before accepting Arafat's appointment of Hakam Ba'lawi, a member of the PLC and of Fatah's central committee and an Arafat loyalist, as

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<sup>809</sup> Ibid, & *Al-Hayat Al-Jadeeda* on 22 September 2003.

<sup>810</sup> Ibid, & *Al-Ayyam* on 28 September

<sup>811</sup> *Al-Ayyam* on 10 October 2003.

<sup>812</sup> Ibid & *Al-Hayat Al-Jadeeda* on 7 October 2003.

<sup>813</sup> Ibid., on 8 October 2003.

<sup>814</sup> Quoted in Graham Usher. "Israel, Arafat, and the US occupation". In *Middle East International*. No. 711, 24 October 2003, P.11.

acting Minister of Interior (he assumed direct responsibility for the preventive security forces, emergency services and rescue and civil police).<sup>815</sup>

In a sense, Arafat ultimately determined the composition of the emergency cabinet and the cabinet's policy, which sought to reach a cease-fire agreement with the opposition factions before concluding a multilateral truce, with Israel ending extrajudicial killings, freezing the construction of the Separation Wall and lifting the closure. Qrieh clearly expressed this policy, vowing not to drag Palestinians into a civil war: "[T]he Palestinian-Palestinian conflict is a taboo. We are not going to play the Israeli game and drag ourselves into a civil war. We will keep our dialogue with the Palestinian factions including Hamas, Islamic Jihad and others."<sup>816</sup>

It seems unlikely that Arafat was not fully aware that such a cease-fire was a far-fetched one given the failure of Abbas' and the expected escalation of Israeli measures on the ground. Still, Arafat supported Qrieh's policy precisely because of its likelihood of failure, which would demonstrate to the US and Israel that Arafat was the only one who could halt the violence and suicide bombings.<sup>817</sup> As such, Israel would have to refrain from adopting any serious measures against him, like expelling him from the territories in order to remove him from the political scene.

At the same time, the failure of Qrieh's dialogue policy would weaken Qrieh's status internally, and make him fully dependent on Arafat and, thereby, less reluctant to disobey Arafat's future instructions. In this connection, Arafat managed to realize his goals, as demonstrated by the developments following the day on which the term of Qrieh's emergency cabinet expired.

As noted above, Qrieh's was an emergency cabinet the term of which was only a month, after which approval of two thirds of the PLC was required. On 4 November 2003, the term expired. Arafat was legally obligated to ask the PLC for a further

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<sup>815</sup> *Al-Hayat Al-Jadeeda* on 13, 15 October, and *Al-Quds* on 14 October 2003.

<sup>816</sup> *Al-Ayyam & Al-Quds* on 7 October 2003.

<sup>817</sup> In December 2003, for example, Arafat would encourage Qrieh to resume dialogue with 12 Palestinian opposition factions (among which were Hamas and Islamic Jihad) gathered in Cairo. The dialogue ended with failure as no agreement was reached after these factions demanded clear guarantees ending the Israeli measures on the ground in return for a declared cease-fire from their side. See Graham Usher. "Advantage Sharon". In *Middle East International*, No. 715, 19 December 2003.

extension of the cabinet's term, or to declare the dissolution of the government and ask Qrieh or another to form a new one. As PLC member Azmi al-Shu'abyi pointed out, Arafat "failed to ask the PLC to extend Qrieh's government's term."<sup>818</sup>

Instead, Arafat said the Qrieh government would be "streamlined" until an expanded government was formed.<sup>819</sup> When Qrieh began expanding his government, he was in no position to resist Arafat's wishes to keep Hakam Ba'lawi, an Arafat appointee and loyalist, for the interior portfolio and to leave the security forces under the PNSC with Arafat as chair. Ultimately, Arafat and Qrieh agreed upon this formula before the declaration of Qrieh's regular cabinet. As Qrieh himself pointed out: "We agreed to unify the security forces in a manner that ensured the fulfilment of our commitments under the leadership of Abu Amar [Arafat]."<sup>820</sup>

With the exception of a few ministers (like Salam Fayyad), most of Qrieh's regular cabinet ministers were from among Arafat's old guard: Nabil Sha'at, Sa'eb Erekat, Intisar El Wazir, Mitri Abu Ita, Mahr El Masri, Jawad El Tibi, Rawhi Fatoh and others.<sup>821</sup> In this sense, the government was structured in a manner that enhanced Arafat's power and status. Hassan Abu Libdah, the newly appointed director of the prime minister's bureau, admitted this fact when he declared that

"...this government was formed not to diminish the President (Arafat) or share his authorities. Rather, it was formed to strengthen the PA, to end chaos, to initiate a comprehensive reform, to prepare for the elections, and to push forward the peace process. These are the main priorities of the government which Mr. Arafat set up for Qrieh and asked him to fulfil."<sup>822</sup>

On 12 November 2003, the PLC voted in favour of Qrieh's government with 48 in favour, 13 opposed and 5 abstentions.<sup>823</sup> In so doing, the PLC formally recognized Arafat's authority over the government, thereby turning back the clock to a *de facto* presidential system with Arafat standing unchallenged and in control.

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<sup>818</sup> *Al-Ayyam* on 4 November 2003.

<sup>819</sup> *Ibid & Al-Hayat Al-Jadeeda* on 5 November 2003.

<sup>820</sup> *Al-Ayyam* on 10 November 2003.

<sup>821</sup> The names of the 24 ministers of Qrieh government were published by *Ibid & Al-Hayat Al-Jadeeda* on 10 November 2003.

<sup>822</sup> *Al-Ayyam* on 10 November 2003

<sup>823</sup> *Ibid, Al Hayat Al Jadeeda, & Al-Quds* on 13 November 2003.



### ***Sharon's Unilateral Steps: Towards the Gaza Disengagement Plan***

In a sense, Sharon benefited from Arafat's *de facto* control over Qirieh's government, as Sharon used it as an excuse to proceed unilaterally, starting with the construction of the first phase of the Separation Wall, by arguing that there was no fundamental change in the Palestinian political system and that Arafat, "the number one enemy of peace", as Sharon prefers to describes him, remained the unchallenged actor in Palestinian politics. Palestinians, Sharon continued, failed to meet their obligations under the Road Map, including the full empowerment of the Palestinian prime minister. In an interview with the *Jerusalem Post* in October 2003, Sharon stated that

"...an agreement with the Palestinians won't happen by itself. It requires a Palestinian prime minister who really would be strong. So far the reforms have not been implemented. Any prime minister now would have his hands tied by Arafat."<sup>824</sup>

Consequently, Sharon had the pretext to proceed unilaterally and to impose his own vision of a final settlement with Palestinians with the full support of the Bush administration.<sup>825</sup> In February 2004, Sharon dropped a political bombshell when he announced his plan to dismantle most of the 21 Jewish settlements in the Gaza Strip, where some 5,000 settlers live, among 1.3 million Palestinians.<sup>826</sup> The plan, which became commonly known as the "Gaza disengagement plan", embodied the formal Israeli position towards the final status settlement with Palestinians and included the dismantling of only a few settlements in the West Bank.

The Jewish settlements expected to be dismantled in the West Bank are located behind the Separation Wall, and a most generous estimate of their number is five (Ghaneem, Kadiem, Homish, Wasah and Nour).<sup>827</sup> The Gaza disengagement plan, therefore, meant the legitimatization of Israel's *de facto* annexation of most of the West Bank settlements (the annexation of at least 136 out of 141 settlements) under the illusion of compromising so much of Israel's interests by evacuating the Jewish settlements in the Gaza Strip.

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<sup>824</sup> The full text of the interview can be found

<<http://info.jpost.com/Coo3/Supplements/FSB/031017/art.01.htm>>

<sup>825</sup> *AL-Ayyam* on 12 December 2003.

<sup>826</sup> The BBC on 4 February 2004 <[http://news.bbc.co.uk/2/hi/middle\\_east/3462461.stm](http://news.bbc.co.uk/2/hi/middle_east/3462461.stm)>

<sup>827</sup> According to the Sharon Plan published by *Al-Quds* daily on 17 April 2004.

Most importantly, the plan meant an Israeli declaration of the Road Map's collapse and the end of any principled peace settlement with Palestinians based on UN Security Council resolutions 242, 338 and 194, confirming the Palestinian rights to form a state in WBGS (including East Jerusalem), to return of refugees and to self-determination. This was, and still is, the PA's nightmare. However, the PA was in no position to oppose the disengagement plan on principle because so doing would pit the PA against an Israeli withdrawal from a Palestinian territory.

The PA, therefore, declared a conditional acceptance of the plan. The withdrawal from the Gaza Strip, the PA asserted, would have to take place simultaneously with withdrawals from the West Bank in accordance with the Road Map and in a manner that would not compromise the formation of a Palestinian state in WBGS (including East Jerusalem) at some future time. This, the PA continued, would have to take place in full co-ordination with the concerned parties (including the PA, Israel and the Quartet members). In March 2004, Arafat put it this way:

“We welcome any simultaneous Israeli withdrawal from any part of our land. I mean from Gaza and the West Bank. ... To reach a full withdrawal from all our territories... the withdrawal should be through talks between the two parties and the framework of the Road Map.”<sup>828</sup>

Of course, Sharon was unprepared to listen to Arafat or to respond to his demand to revive the peace talks according to the Road Map. What concerned Sharon was how to eliminate Hamas' military and civil infrastructure and to weaken its capacity to take part in the administration of Gaza after the withdrawal of Israeli soldiers. Sharon's concern was stimulated by Hamas welcoming his plan as a product of the *intifada*. Hamas was of the opinion that the PA should not coordinate the withdrawal with Israel and let Israeli soldiers leave Gaza as if they were “escaping” it. Hamas was ready to take part in the administration of the Gaza Strip on an equal footing with other factions under the slogan of “partners in blood, partners in decision”. Hamas

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<sup>828</sup> Quoted in <[http://customwire.ap.org/dynamic/stories/I/ISRAEL\\_PALESTINIANS?SITE=DCTM...](http://customwire.ap.org/dynamic/stories/I/ISRAEL_PALESTINIANS?SITE=DCTM...)> from the Washington Times of 11 March 2004.

wanted a nation-wide leadership to adopt a political program seeking the liberation of the remaining parts of Palestine through “armed struggle”.<sup>829</sup>

This position, interpreted by Sharon as a new Hamas threat to escalate its military operations against Israeli forces in Gaza, coupled with the absence of any Palestinian leader capable of cracking down on Hamas, prompted the Israeli government to escalate the “all-out-war” on Hamas. As Israeli Deputy Minister Ihud Olmert pointed out: “We decided it was no use waiting for the Palestinians to implement the vision of President Bush and the Road Map. Time is of the essence. The status quo needs to be changed and we are ready to do this.”<sup>830</sup>

On 22 March 2004, therefore, the Israeli occupying forces assassinated the disabled Sheikh Ahmad Yassin, Hamas' founder and spiritual leader. Yassin's assassination dealt the hardest blow to Hamas since its foundation in 1989, and the act earned strong condemnation from most of the international community, including the UN.<sup>831</sup> After less than a month, on 17 April, Hamas suffered a second loss with the assassination of Dr. Abdel Aziz Al Rantisi, Yassin's successor.<sup>832</sup> In carrying out these extrajudicial killings, Israel was encouraged by the Bush administration, which vetoed a UN Security Council resolution condemning the assassination of Yassin and calling a halt to “all attacks against any civilians as well as all acts of violence and destruction”, on 25 March 2004.<sup>833</sup>

The extrajudicial killings of Hamas leaders accompanied a serious escalation in Israeli incursions into cities, towns and camps in the Gaza Strip, under the pretext of combating the “terrorist infrastructure”. In March 2004, Israeli troops backed by tanks and helicopters raided al-Bureij and Nusseirat in central Gaza Strip to destroy the

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<sup>829</sup> The position of Hamas toward the Gaza-disengagement plan was stated in a Hamas internal document dated on 23 May 2004. Arabic excerpts of this documents are cited on the official webpage of the pro-Hamas daily of Al-Watan <<http://www.alwatanvoice.com>>

<sup>830</sup> Quoted in BBC on 22 March 2004. Online <[http://news.bbc.co.uk/2/hi/middle\\_east/3556593](http://news.bbc.co.uk/2/hi/middle_east/3556593)>

<sup>831</sup> The Palestine News Agency of “Wafa” on 23 March 2003. English Internet edition <[http://english.wafa.ps/body.asp?field=tech\\_news&id](http://english.wafa.ps/body.asp?field=tech_news&id)>

<sup>832</sup> Asharq Al-Awsat on 18 April 2004. Arabic internet edition <<http://www.asharqalawsat.com/default.asp?issue=9273&page=front&article=229251>>

<sup>833</sup> Haaretz on 26 March 2004. English internet edition <<http://www.haaretz.com/hasen/pages/ShArt.jhtml?itemNo=408914&contrassID=1&su...>>

military formations of these refugee camps. Described as a "pinpoint" operation by the Israeli army, the raids left 14 Palestinians including an eight-year-old boy dead.<sup>834</sup>

Most notably was the May raid of Israeli forces into Rafah city under the pretext of closing the smuggling tunnels that run from Egypt under the border controlled by Israel. Located in the south of the Gaza Strip and described as the most violent area of the territories, Rafah is adjacent to the border between Egypt and the Gaza Strip. The estimated length of this border is 12.5 km, four of which run alongside the city. Since the outbreak of the *intifada*, Palestinian militants and Israeli forces have regularly exchanged fire at various points along the border. Because of that, nearly two thirds of the homes demolished by the Israeli occupation forces since the outbreak of the *intifada* (estimated at 2,500) have been in Rafah.<sup>835</sup>

In addition, almost every house at the southern edge of the city is pockmarked by heavy machine gun, tank or rocket fire. Continuously, Israel claims that these houses are used by Palestinian militants as hiding places to construct tunnels for smuggling small arms and explosives. Under this pretext, the Israeli occupying forces launched one of the largest and bloodiest operations in the Gaza Strip since Israel occupied it in 1967. Operation Rainbow started on 12 May and lasted until 24 May, resulting in 298 demolished homes and 47 Palestinians killed eleven of whom were children.<sup>836</sup>

Of the 47 dead, a dozen or so were killed within no more than a few minutes, and dozens more injured when an Israeli helicopter dropped a bombshell among hundreds of demonstrators who were marching down the main street of Rafah toward Tal El-Sultan neighbourhood (west of Rafah) where the Israeli raid was concentrated in the first days of the operation.<sup>837</sup> Israeli shelling of the peaceful Palestinian demonstration prompted John Dugard, UN Special Rapporteur to the OPT, to describe the operation as "war crimes amounting to collective punishment."<sup>838</sup>

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<sup>834</sup> The BBC on 7 March 2004. Online <[http://news.bbc.co.uk/1/hi/world/middle\\_east/3540179.stm](http://news.bbc.co.uk/1/hi/world/middle_east/3540179.stm)>

<sup>835</sup> According to Human Right Watch (HRW) Report of "Razing Rafah: Mass Home Demolitions in the Gaza Strip". May 2004, P.1, Online <<http://www.hrw.org/campaigns/gaza>>

<sup>836</sup> Ibid, Pp.10-11.

<sup>837</sup> According to BBC on 19 May 2004. Online <[http://news.bbc.co.uk/2/hi/middle\\_east/3728681](http://news.bbc.co.uk/2/hi/middle_east/3728681)>

<sup>838</sup> Ibid.

Dugard's words reveal Israel's failure to balance its interests as an occupying power against the protection of the civilian population. While Israel, as the occupying power, has the rights to defend itself, to close smuggling tunnels and to take measures to avoid further attacks, its exercise of these rights must not affect the right of civilians to life and property. The shelling of the peaceful demonstration, coupled with the wide-scale destruction of homes, suggests that the operation was a measure of collective punishment against civilians to avenge the killing of five Israeli soldiers by Islamic Jihad militants at the border on 12 May 2004.<sup>839</sup>

More importantly, they suggest that the operation did not seek to protect soldiers at the borders or to close smuggling tunnels, but to widen the buffer zone between the Gaza Strip and Egypt in a manner that would tighten Israel's control over the southern border of the Gaza Strip. This would ensure total Israeli control over all the borders of Gaza since Israel already controlled the northern borders of Gaza through the Erez fence. As Human Rights Watch concluded:

"The pattern of destruction ... is consistent with the goal of having a wide and empty border area to facilitate long-term control over the Gaza Strip. Such a goal would entail the wholesale destruction of the neighbourhood, regardless of whether homes in them pose a specific threat to the IDF, and would greatly exceed the IDF's security need"<sup>840</sup>

This is how Sharon understands the Gaza disengagement plan. For him, the plan does not mean the dismantling of the Gaza Strip settlements while leaving Palestinians in control of the borders. Rather, it means Israeli control over borders and external security, notwithstanding the evacuation of the Jewish settlements from the Gaza Strip. Israeli forces will keep their fortifications on the borders between Egypt and the Gaza strip and, thereby, control the movement of Gazans to the outside world. In other words, Sharon seeks to besiege Palestinians within the boundaries of the Gaza Strip while simultaneously keeping his forces ready to invade any Gazan area when the occasion arises. Sharon admitted as much when he asserted in his plan "the right of Israel ... to take preventive measures and to act against any Gaza Strip based threats."<sup>841</sup>

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<sup>839</sup> HRW "Razing Rafah", op.cit., P.8.

<sup>840</sup> Ibid, P.2.

<sup>841</sup> The full text of Sharon Plan was published by *Al-Quds* daily on 17 April 2004.

Sharon regularly described the plan as “hard concessions”, for which the Bush administration traded off Palestinian national aspirations for a state in WBGS with East Jerusalem as the capital, as was manifested in Bush's statements on 14 April 2004. The statements were delivered after a meeting between Bush and Sharon in the White House, during which the US administration endorsed Sharon's plan, accepted for the first time Israel's desire not to respect the pre-1967 borders, and backed Israel's opposition to the Palestinian right of return. Referring to the growth of Jewish settlements in the West Bank, Bush pointed to “new realities on the ground, including already existing major Israeli population centres.” Any final status agreement between Palestinians and Israelis, Bush continued, should “reflect these realities”.<sup>842</sup> In connection to the right of return, Bush declared:

“It seems clear that an agreed, just, fair and realistic framework for a solution to the Palestinian refugees issue as part of any final status agreement will need to be found through the establishment of a Palestinian state and the settling of Palestinian refugees there rather than Israel.”<sup>843</sup>

The boundaries of the Palestinian state, which was supposed to receive the Palestinian refugees according to Bush's “just and fair” settlement, had already been delineated by the Separation Wall and covers at best no more than 42% of the West Bank and the Gaza Strip in the form of isolated cantons, with Israel controlling borders and external security. This means that the Palestinian cities, towns and villages of pre-1948 are out of the picture. Further, all of this implies an American adoption of the Israeli position opposing UN resolutions as a basis of any future settlement of the Israeli-Palestinian conflict. As Amr Moussa, Secretary General of the Arab League, declared: “This development is negative and extremely regrettable because it cancels all previous frameworks [for resolving the Arab-Israeli conflict].”<sup>844</sup> Among these frameworks was, of course, the Road Map which is considered by the EU states as the most appropriate formula to settle the conflict based on a two-state resolution. As Javier Solana, European Union Foreign Policy Chief, announced:

“The EU remains committed to a negotiated agreement resulting in two viable, sovereign and independent states as the only way to achieve permanent peace

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<sup>842</sup> *The Times* on 15 April 2004.

<sup>843</sup> *Ibid.*

<sup>844</sup> *Financial Times* on 16 April 2004.

and an end to the occupation that began in 1967. ... Final status issues can only be resolved by mutual agreement between the parties”.<sup>845</sup>

For Palestinians, any peace settlement that does not ensure the end of the occupation and an independent Palestinian state over WBGS is a nightmare scenario. That is why the Palestinian daily of *Al-Quds & Al-Ayyam* commented on Bush statements as the “new Belfour Declaration [referring to November 1917’s British declaration supporting the establishment of a Jewish national home in Palestine, see chapter II, Pp. 50-51] seeking to liquidate the Palestinian cause.”<sup>846</sup> Qrieh considered Bush's statements as a clear indication of the biased policy of his administration: “We hope the US administration will not say anything that is considered a reward for a party or a side at the expense of the other side. Otherwise, there will be no peace.”<sup>847</sup> Arafat went further and considered the statements as the “fatal bullet” to peace: “It means clearly the complete end of the peace process... It would lead to a cycle of violence and end all the signed agreements.”<sup>848</sup>

Nevertheless, Arab, European and Palestinian condemnations were not to influence the American policy built on the Thomas Hobbes principle of the “justice of power”, rather than the “power of justice”. This principle prompted Sharon to proudly declare Bush's statements an “unprecedented achievement in the history of Israel, and the most painful strike to Palestinians since Israel's inception in 1948.”<sup>849</sup>

### ***The PA: Loosing Authority***

Sharon’s success was not confined to the Bush administration’s endorsement of his wishes to circumscribe the Palestinian national aspirations within the boundaries of his disengagement plan, rather, it extended to include the international community’s endorsement of his wishes to consider Arafat’s regime as an illegitimate one. This was clearly embodied in the statements of Terje Roed Larsen, UN Special Envoy to the Middle East peace process, made in July 2004. In his briefing during a UN

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<sup>845</sup> Ibid.

<sup>846</sup> *Al-Ayyam* on 15 April , & *Al-Quds* on 16 April 2004.

<sup>847</sup> *The Times* on 15 April 2004.

<sup>848</sup> Ibid.

<sup>849</sup> According to *Yediot Ahronot* on 22 April 2004. Arabic Internet edition  
<<http://www.arabynet.com/article.asp?did=107462.EN>>

opening session, Larsen pointed to steadily emerging chaos in WBGS and accused Arafat of displaying a lack of will to reform the PA. In Larsen's words;

"The paralysis of the Palestinian Authority has become abundantly clear, and the deterioration of law and order in Palestinian areas is steadily worsening. ... This collapse of authority cannot be attributed only to the Israeli incursions and operations inside Palestinian towns. The Palestinian Authority is in deep distress and is in real danger of collapse... Arafat has given only nominal and partial support to reform"<sup>850</sup>

Larsen's statements alarmed the PA since they touched on fundamental issues related to the PA's future as the appropriate ruler of Palestinians, as well as the ultimate source of coercion in WBGS. Accordingly, PA officials quickly dismissed Larsen's statements and accused him of serving Sharon's interests. "It is strange for him to play the role of the cheerleader, basically, of Mr. Sharon," Nasser Al Kidwa, the Palestinian permanent observer to the UN, told reporters after attending the UN opening session.<sup>851</sup>

Nevertheless, only a few days after Larsen's statements, the PA suffered an unprecedented state of disorder that threatened its collapse just as Larsen predicted! On 16 July 2004, a militant group calling itself the Jenin Martyrs Brigades kidnapped Ghazi Al-Jabali, head of the PA civil police, and held him hostage in al-Bureij refugee camp for three hours before releasing him upon some PA officials' mediation. The group was protesting what it called "the PA's failure to combat corruption and to try all those accused of misuse of power and office among whom is Ghazi Al-Jabali."

On the same day, masked Palestinian gunmen kidnapped five French civilians in the southern Gaza Strip town of Khan Younis and took them to the local Red Crescent headquarters where they ordered workers to leave. The masked gunmen released the French civilians after a few hours and demanded to be employed in the PA security apparatus. The kidnapping of the French civilians was the third incident of its kind, as other unidentified armed men kidnapped Khalid Abu Al Ulah, head of the southern office of the Israeli-Palestinian District Coordination and Cooperation Offices

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<sup>850</sup> *Jerusalem Post* on 14 July, 2004. English Internet Edition

<<http://www.jpost.com/servlet/Satellite?pagename=JPost/JPArticle/ShowFull&cid=108>>

<sup>851</sup> Ibid.



(DCOs), on the main road between Khan Younis and Rafah on the same day.<sup>852</sup> In protest against this state of disorder, Rashid Abu Shbak, head of the Gaza Strip Preventive Security Forces, and Amin el-Hindi, Director General of General Intelligence, resigned their posts.<sup>853</sup> The result was a stalemate for Arafat, exacerbated by Qrieh's resignation from the premiership in protest against the state of disorder.

Arafat dismissed the resignation of Qrieh, Abu Shbak, and El-Hindi. He decreed the unification of the Palestinian security forces into three: the civil police, public security (or, as it is commonly known, the National Security Force or *Qwaat Al Amn Al Watani*) and General Intelligence. Moreover, he dismissed Al-Jabali from his post and appointed Sae'b Al A'jz. In the meanwhile, he replaced Abdel El Raziq El-Majidah with Musa Arafat as head of public security. Musa Arafat remained at the head of military intelligence as well.<sup>854</sup>

Though these measures partially contained the crisis, they prompted serious strife inside Arafat's party of Fatah. The strife centered around the appointment of Musa Arafat to the head of public security. While the young members of Fatah (mainly the Al-Aqsa Martyrs' Brigades) considered the appointment of Musa Arafat, described as a symbol of corruption and misuse of power by Palestinians, as a clear indication of Arafat's reluctance to promote real reform, Arafat old guards considered it necessary to preserve Arafat's authority. On 17 July 2004, thousands of Fatah supporters backed by the Al-Aqsa Martyrs' Brigades marched toward PLC headquarters in Gaza City protesting the appointment of Musa Arafat, and calling on Arafat to bring an end to the chaos and to adopt real reformist measures.<sup>855</sup>

In a similar fashion, dozens of young militants marched through El Nusseirat camp in central Gaza chanting "No to Musa Arafat, yes to reform." In Rafah, the situation was worse, as young militants exchanged fire with the guards at preventive security headquarters.<sup>856</sup> No casualties were reported. However, the events left the future of Arafat's party in real danger and constituted a serious challenge to Arafat's capacity

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<sup>852</sup> *Al-Hayat Al Jadeeda* & Al-Quds on 17 July 2004.

<sup>853</sup> Ibid.

<sup>854</sup> *Al-Quds* on 18 July 2004.

<sup>855</sup> Ibid.

<sup>856</sup> Lara Sukhtian. "Militants Burn Palestinian Offices". Online  
<<http://www.Israelforum.com/board/archive/index.php/t-5098.html>>

to preserve it. Paradoxically, the source of the challenge was not the opposition factions, most of which demanded immediate reformist measures,<sup>857</sup> but, as we have seen, militants affiliated with Fatah.

Arafat quickly re-appointed El-Majidah as head of public security, and with Prime Minister Qrieh, set up a ministerial committee to investigate the reasons for the disorder.<sup>858</sup> However, the committee never conducted any investigation. On 21 July, Nabile Amr, a PLC member, was shot in the foot with two bullets by unidentified armed men.<sup>859</sup> The attack on Amr added further ambiguity to the identity of the persons behind the disorder.

Palestinians believed Israel stood to benefit most from the internal Palestinian chaos and, therefore, blamed it for the recent events. In support of their accusations, Palestinians pointed to certain Israeli officials' remarks on Gaza events. Such as Sharon's considering the events as "other evidence of [his] contention that Israel lacks a real peace partner." Some Israeli ministers considered the events as the product of Arafat's continued control over security forces and financial resources. In the words of Silvan Shalom, Israeli Foreign Minister, "when Arafat's security and financial authority is confiscated from him, there will be order."<sup>860</sup>

These events, Palestinians believed, were intended to end Arafat rule in a manner that would enable Israel to proceed with its unilateral steps. Assuming this analysis to be true, Palestinians failed to see the other side of the coin. The longer Arafat remained in power, the more Israel would be justified not to go along with the Road Map. In this sense, Israel was unwilling to remove Arafat, but willing to weaken his capacity to influence the rules of the game. Only this would enable it to refrain from pursuing the Road Map and to proceed unilaterally.

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<sup>857</sup> On 17 July 2004, for example, Islamic Jihad and DFLP published pamphlets declaring their apposition to the security chaos, and calling for real and immediate reformist measures. On the followed day, PFLP published pamphlet to this effect.

<sup>858</sup> *Al-Ayyam* on 20 July 2004.

<sup>859</sup> *Al-Hayat Al-Jadeeda* on 21 July 2004.

<sup>860</sup> *Al-Ayyam* on 19 July 2004.

The means to achieve Israel's goal, it could be concluded, was the promotion of insecurity, but it would have to take place under the pretext of reform. Only this would ensure further international support for Israeli unilateral steps while leaving the impression that the events were a Palestinian-Palestinian strife reflecting the PA's failure to rule. Against this background, the attack on Amr must be examined. Bearing in mind that Amr served as a minister in Abbas' cabinet and was a member of a committee formed to report, on 21 July 2004, to the PLC on the failure of Qrieh's government to keep order and combat corruption,<sup>861</sup> the attack on Amr was intended to give the impression that it and the other events were the violent manifestation of the strife between the conservative doctrine (Arafat doctrine) and the reformist doctrine (Abbas doctrine).

Ironically, Palestinians themselves believed this story when they accused Dahaln of cooperating with Israel in engineering the events. Palestinian accusations against Dahaln were prompted by the fact that Dahaln was one of the few Palestinian political figures to win Israel's favour and to build a power centre beyond Arafat's reach. In this sense, Palestinians asserted, Dahaln was objectively qualified to engineer the events. Add to that the fact that Dahaln had served in Abbas' cabinet and was a supporter of reform, it is possible to conclude that Dahaln was subjectively qualified to engineer the events as well.

However, this conclusion does not mean Dahaln actually participated in the events or promoted them. Dahaln ruled out violence from his methodology, asserting that Arafat was the representative of Palestinians, notwithstanding Dahaln's demands to implement the PLC document of reform of 2002, to reorganize the security forces, to ratify PLC laws, and to initiate elections for the Fatah central committee in order for the young generation to assume a leading role in the party.<sup>862</sup>

Whoever engineered them, the events proved that the PA was in a serious crisis and that reform was urgently needed. Under this pressure, Arafat agreed to cooperate with the parliamentary committee (formed on 22 July 2004) to implement the PLC plan of

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<sup>861</sup> *Al-Hayat AL-Jadeeda* on 22 July 2004.

<sup>862</sup> *Al-Quds* on 1 August 2004.

reform of 2002.<sup>863</sup> Meanwhile, Arafat endorsed Qrieh's demand to enjoy real authority over the three security forces, which legally were under the minister of interior's control (the Preventive Security Forces, Emergency Services and Rescue, and Civil Police). The Qrieh government adopted a series of re-appointments within these forces as a first step to implementing the security plan envisaged by Al A'jz to improve the performance of the PA security forces.<sup>864</sup> This step was followed by the deployment of the Palestinian police to the various towns and cities of WBGS.<sup>865</sup> However, the regular Israeli incursions into Palestinian towns and cities restricted the forces' efforts to keep order.

On 18 August 2004, Arafat delivered an unprecedented speech before the PLC, including a comprehensive assessment of the PA's achievements and failures since its foundation in 1994. In his speech, Arafat pointed to the "Israeli aggressive war" against the Palestinians and their institutions, beginning with Israel's failure to implement the political accords signed with the Palestinians and culminating in the Israeli re-occupation of Palestinian cities and towns during the *intifada*. The war reached its peak, Arafat asserted, with the construction of the Separation Wall to consume around 58% of the West Bank, the regular incursions into Palestinian towns and cities, and the shelling of Palestinian security forces and institutions. All of this, Arafat explained, weakened the capacity of PA institutions to work in an effective manner, and "produced a security vacuum in several areas ... and, hence, promoted chaos and security anarchy, thereby stifling the emergence of the rule of law."<sup>866</sup>

Nevertheless, Arafat admitted the PA's role in stifling the rule of law and the PA institutions' weak performance when he asserted "the unacceptable and incorrect practices of some institutions. Some misused their office ... and only a little support was given to the rule of law, independence of judiciary, and principles of accountability."<sup>867</sup> To deal with the crisis, Arafat called for immediate presidential and parliamentary elections, a number of laws to organize the work of the security forces and to promote financial transparency, and the full empowerment of the

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<sup>863</sup> *Al-Ayyam* on 23 July 2004.

<sup>864</sup> *Ibid.*, & *Al-Hayat Al-Jadeeda* on 3 August 2004.

<sup>865</sup> *Al-Ayyam* on 8 August 2004.

<sup>866</sup> The full text of Arafat speech was published by *Al-Hayat Al-Jadeeda* on 19 August 2004.

<sup>867</sup> *Ibid.*

Attorney General to follow up all issues related to the misuse of public office and of funds. Most notable was Arafat's announcement of his readiness for accountability by the PLC, by a parliamentary committee, or by any other Palestinian body.<sup>868</sup>

Arafat initiated a comprehensive reform plan, affecting the political system, judiciary, security institutions and bureaucracy. Arafat's reform plan was inspired mainly by the 2002 PLC reform plan,<sup>869</sup> and, in this sense, Arafat's plan was a PLC plan. This was the first time Arafat adopted a PLC plan or resolution, which may denote Arafat's readiness to accept real reforms and thereby to yield significant power.

The following developments on the ground may support this analysis. In the same month as Arafat's speech, Ali Al Jarbawi, Executive Director of the Central Elections Commission, announced the start of the registration period for the second presidential and parliamentary elections on 4 September 2004. Around 1.8 million Palestinians, Al Jarbawi noted, were expected to register as eligible voters during the registration period which lasted up until 7 October of the same year.

To this end, Al Jarbawi added, at least 1009 registration stations were founded to enable Palestinians of WBGS (including East Jerusalem) to register for the elections that were to be held according to the 1995 Electoral Law (see chapter IV). 80% of the eligible voters, Al Jarbawi expected, would participate in the elections which needed some six months of preparation.<sup>870</sup> In the period between 4 September and 7 October 2004, registration of eligible voters started, and thousands of Palestinians registered in the several registration stations in the various cities and towns of WBGS (including East Jerusalem).

However, the process was interrupted in some governorates like Jabalia in the northern Gaza Strip where Israel launched a bloody military operation that lasted for around three weeks, leaving 125 Palestinians dead. Furthermore, some Palestinians of other governorates like Jerusalem, for example, were unable to reach the registration

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<sup>868</sup> Ibid.

<sup>869</sup> The committee, headed by Abbas Zaki, a PLC member, and included other nine PLC members, submitted its report to the PLC special session held in Ramallah and Gaza in the period of 18-25 August 2004.

<sup>870</sup> The London-Based daily of *Al-Hayat* on 18 August 2004.

stations due to the Israeli imposition of roadblocks. This forced the Central Elections Commission to extend the registration period for another week upon a request by the PLC.<sup>871</sup> In mid-October, the Central Electoral Commission announced the completion of the eligible voters' registration. Nevertheless, no elections were held, mainly due to the sudden deterioration of Arafat's health in late October 2004. Palestinians became deeply engrossed in the health developments of their long-time symbol and the man who transformed theirs from "a refugee cause" to "a national cause".

On 29 October, Arafat, said to require medical treatment for an intestinal flu, boarded a Jordanian helicopter and left his headquarters (*Al-Muqatah*) in Ramallah for the first time in more than two years (since March 2002). As he boarded the helicopter on his way to the Percy Hospital's state-of-the-art hematology clinic in France, thousands of tearful Palestinians, bodyguards and officials chanted, using his nom de guerre: "We will sacrifice our blood and souls for you, Abu Ammar" and "the mountain cannot be shaken by the wind"<sup>872</sup> (one of Arafat's favourite sayings). These tearful Palestinians were disappointed on this occasion, as the mountain *was* shaken. Arafat departed on 11 November 2004.

### ***After Arafat's Departure***

Arafat's death ended one of the most controversial eras in Palestinian history. It started with Arafat appearance in the late 1950s and his subsequent success of, together with Khalil El Wazir (assassinated by Israeli intelligence in April 1988), Salah Khalaf (assassinated in January 1991) and others, laying the foundation for the first modern Palestinian national movement, Fatah, the revised Arab acronym for the Palestinian national liberation movement and itself meaning "openness". Fatah's founding occurred in the early 1960s, and preceded Arafat's and his colleagues' success in dominating the Palestinian Liberation Organization (PLO), a national organization founded by the Arab states in 1964 to enable Palestinians to play their part in the liberation of their land.<sup>873</sup>

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<sup>871</sup> *Al-Hayat Al-Jadeeda* on 6 October 2004.

<sup>872</sup> See Haaretz on 30 October 2004. English Internet edition  
<<http://www.haaretzdaily.com/hasen/spages/494992.html>>

<sup>873</sup> For discussion over the developments concerning the building of PLO, and Fatah movement, see Cobban op.cit., chapter 2 (Pp.21-35).

After that, Arafat assumed the chairmanship of the PLO executive committee, and managed to flee with the PLO away from Arab tutelage and to gather all Palestinians with their various ideological affiliations under the PLO banner, armed struggle being its only instrument to liberate Palestine. However, with the outbreak of the third Arab-Israeli war in 1973, and the subsequent American and Soviet pressure to convene an international peace conference to settle the conflict, Arafat introduced his peace initiative known as the “ten points plan”, which sought to establish a Palestinian Authority on any part of Palestine.<sup>874</sup>

Arafat’s peace initiative enabled him to get, in 1974, the Arab states and the UN General Assembly to endorse the PLO’s claim to be the sole representative of Palestinians, and the right of Palestinians to self-determination.<sup>875</sup> This was an unprecedented political achievement for Arafat and his organization, as it transformed the Palestinian cause from a cause of refugees to a cause of nationhood. However, this achievement prompted Israel to invade Lebanon in 1982 with the aim of destroying the PLO military and civil infrastructures, which were rebuilt there after the PLO’s expulsion from Jordan following the Palestinian-Jordanian civil war of the early 1970s.

With the semi-destruction of his organization’s military and civil infrastructures in Lebanon, Arafat set up his headquarters in Tunisia before the breakout of the first *intifada*, which enabled him and his organization to participate (within the context of a joint Palestinian-Jordanian delegation) in the Madrid Peace Conference initiated by the Americans on 30 October 1991. However, the right-wing Israeli government in power at that time rendered this conference largely unproductive. With the rise of Yitzak Rabin to the Israeli premiership in 1992, new windows of peace opened, and Arafat initiated with Rabin the Oslo backchannel to sign the Declaration of Principles in 1993.

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<sup>874</sup> For this Plan see Y. Harkabi, *The Palestinian Covenant and its Meaning*, Valentine Mitchell & CO. LTD (1979) Pp. 147-148 and also for the most recent discussion over this programme see chapter Muhammad Muslih. “A Study of PLO Peace Initiatives, 1974-1988.” In Avraham Sela & Moshe Ma’oz (eds.) *The PLO and Israel: From Armed Conflict to Political Solution: 1964-1994*. New York: St. Martin’s Press, 1997.

<sup>875</sup> Cobban op.cit., Pp.58-63.

The Declaration of Principles and the subsequent Cairo agreement (or Gaza-Jericho Agreement) gave rise to the first Palestinian authority on a Palestinian territory in May 1994. The PA was empowered with authority over civil matters, and all issues relating to sovereignty and external security remained under Israeli control. In July 1994, Arafat returned to the territories for the first time in five decades. He assumed the PA chairmanship before being formally elected to the post in 1996 after the extension of PA civil control to 27% of West Bank and 60% of the Gaza Strip.

Nevertheless, Arafat was asked to go through bitter rounds of negotiations with the Israeli government to realize the Palestinian aspirations of self-determination and return, culminating in the unproductive Camp David II. Its failure turned the clock back to the days of antagonism that distinguished Israeli-Palestinian relations before 1993. This fact was manifested by the outbreak of the *Al-Aqsa intifada* in 2000 and by the subsequent obstruction - or collapse - of peace. Arafat, thus, was besieged in his compound in Ramallah, and the resistance of his people was labelled with terror, before his authority being subjected to unprecedented pressure to reform itself.

As we have seen, Arafat was labelled as a terrorist and was pressured to yield his authority to a strong prime minister as a precondition to the revival of peace. Between the pressure of his enemies to yield his authority and the pressure of his people to realize their national aspirations, Arafat managed; it should be admitted, to play the game and to remain the unchallenged leader and symbol of the Palestinian nation until he was formally pronounced dead on 11 November 2004.

Like any other leader, Arafat had successes, as well as failures. Among his most notable successes was the momentum the Palestinian cause gained during his time, as manifested in the UN General Assembly resolutions providing for the rights of Palestinians to self-determination and to an independent state. His other major achievement was his conversion of the first *intifada* into the creation of the PA, the first Palestinian authority in history. Through the first *intifada*, Arafat managed to gain Israel's formal recognition of the Palestinian national existence and, thus, to transform the issue of the Palestinian entity from the realms of theoretical possibility into an empirical reality.



The PA formed the first building blocks of a future Palestinian state, creating Para-state institutions like the cabinet, legislative body and security institutions. Though Arafat sought to evolve this authority into a state with its derivative attributes, including a monopoly on coercion and the ability to issue binding rules, certain political reasons (as we have seen in chapter III) hampered Arafat's attempts to do so.

In his endeavors to evolve his authority into a state (in terms of monopolizing coercion and issuing binding rules), Arafat was restrained by the conditions of interim accords signed with Israel, conditions that prompted several mistakes on Arafat's part. Prompted by the possible threat of his opponents (mainly Hamas and Islamic Jihad), Arafat concentrated power into his hand and into the few around him whom he trusted. The majority of the population was denied access to effective political participation in a manner that hindered the emergence of a democratic political system based on the principles of separation of powers, accountability, transparency, and the rule of law.

In addition, Arafat hindered the emergence of a professional bureaucratic system and tended instead to enlarge and overstaff the PA civil and security apparatus with the aim of gaining people's loyalty. In other words, Arafat politicized the bureaucracy and, hence, diverted it from its intended purpose (the welfare of Palestinians).

Nevertheless, Palestinians tolerated Arafat's internal mistakes, particularly in light of his position in Camp David II when he refused to yield their national aspirations. Though this position might be perceived by some as irrational in that it deprived Palestinians of a historical opportunity to achieve their state,<sup>876</sup> Palestinians considered it a most patriotic stance and, thus, considered Arafat the most conceivable leader, with more than 26% of Palestinians trusting him the most in comparison to 1.7-11.2% trusting other public figures (like Ahmad Yassin, Hamas founder; Ahmad Sa'adat, Secretary General of the PFLP; and others) in October 2003.<sup>877</sup>

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<sup>876</sup> See for example Barry Rubin. "The Terror and the Pity: Yasir Arafat and the Second Loss of Palestine". In *Journal of Middle East Review of Internal Affairs (MERIA)*. Vol. 6, no.1 (March 2002). Internet edition <<http://meria.idc.ac.il>>

<sup>877</sup> See GMCC Poll No.49, October, 2003. Online <<http://www.jmcc.org>>

Anyone who witnessed the hundreds of thousands of tearful Palestinians who gathered in Arafat's compound awaiting the arrival of his body on 12 November 2004 would understand what Arafat meant to them. Simply put, Arafat embodied the Palestinians' national aspirations for an independent state, self-determination and return, which aspirations he never yielded to Israel. Eventually, these tearful Palestinians moved their sadness aside to show outstanding skill in dealing with the legal implications of their historical leader's departure.

As was mentioned in chapter IV (P. 190), the PLC Speaker is supposed to replace an incapacitated PA president for a period not exceeding 60 days, during which free presidential elections are to be held. Accordingly, Rohi Fatoh, PLC Speaker since 10 March 2004,<sup>878</sup> took over the PA chairmanship before scheduling presidential elections for 9 January 2005. On 25 December 2004, the Central Elections Commission initiated an electoral campaign scheduled for 25 December 2004 to 8 January 2005 (two weeks). Seven candidates competed for the PA chairmanship: Mohammoud Abbas (Abu Mazen), Fatah candidate; Taysser Khalid, DFLP candidate; Bassam El Salihi, People Party candidate; and Mustafa El Barghuti, Al-Sayyad Barakah, Abdel Halim Al Ashqar and Abdel Karim Shbeer, all independent candidates.<sup>879</sup>

The favorite to win was Abbas, the candidate for the largest Palestinian party (Fatah) and the one who strongly reappeared onto the political scene as Arafat's successor to the head of the PLO executive committee. However, Abbas did not win without a real challenge from El Barghuti. Over the course of the *Al-Aqsa intifada*, El Barghuti had been deeply involved in defending Palestinian human rights and had succeeded in recruiting considerable international opposition to the Separation Wall.

Both Abbas and El Barghuti appeared to adopt the same political program in their campaigns' main slogans. While Abbas promised "to end the occupation", to achieve security for citizens and to reform and develop PA institutions, El-Barghuti demanded

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<sup>878</sup> Rohi Fatoh is a Fatah affiliated PLC member. As we have seen in chapter IV, he was the holder of the PLC secretary general post since the PLC inauguration in March 1996. Currently, he is the heir of Rafiq Al-Nitshah, the Fatah affiliated PLC member, and the holder of PLC speaker post after Qrieh resignation from this post to take over the premiership. See *Al-Quds* on 4 November 2003, & *Al-Ayyam* on 11 March 2004.

<sup>879</sup> *Al-Quds* on 26 December 2004.

that electors “leave the Palestinian cause in clean and honest hands.”<sup>880</sup> In this sense, El Barghuti called on Palestinians to elect a leader who would realize their national aspirations and build viable government institutions. Both men thus sought to realize the same goal. However, El Barghuti considered Abbas an old guard of the PLO and called for the young generation to have access to top political posts.

Aside from El Barghuti, Abbas faced little challenge from other candidates, most of whom were unknowns. Most importantly, Abbas did not face any real challenge from the Oslo opponents ( Hamas, Islamic Jihad and PFLP), all of which boycotted the elections for the same reasons they boycotted the 1996 elections (see chapter IV). On the eve of the elections, 1,282,524 Palestinians were registered by the Central Elections Commission, constituting 71% of eligible voters (estimated at 1.8 million). Registered voters were able to vote at any one of 1074 polling stations distributed between the sixteen governorates of the West Bank (including East Jerusalem) and the Gaza Strip. They were asked to elect the PA president from among the above-mentioned candidates. Some 22,632 observers monitored the elections process. Of these were 7,142 local observers representing 201 local institutions and commissions, 12,448 observers representing 13 partisan commissions, 2,242 observers representing the independent candidates, and 800 international observers representing 58 international organizations.<sup>881</sup>

Only 775,146 of registered voters actually voted (60% of the registered voters and only 43% of eligible voters). The low turnout was due mainly to Israeli roadblocks that prevented many voters from reaching polling stations. In Jerusalem, for example, only 26,365 Palestinians could vote out of the 120,000 registered.<sup>882</sup> Abu Mazen earned 62.23% of the votes. Following Abu Mazen was El-Barghuti with 19.08%, Al-Sayyad Barakah with 3.97%, Taysser Khalid with 3.05%, Bassam El Salihi with 2.96%, Abdel Halim Al Ashqar with 2.86%, and Abdel Karim Shbeer with 0.67%.<sup>883</sup>

Abbas' win was welcomed. Bush, who had severed contact with Arafat, declared that he was prepared to meet Abbas: “I look forward to welcoming him here if he chooses

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<sup>880</sup> Ibid.

<sup>881</sup> *Al-Hayat Al-Jadeeda* on 9 January 2005.

<sup>882</sup> *Al-Ayyam* on 11 January 2005.

<sup>883</sup> Ibid.

to come.” Shimon Peres, Israeli Labor Party leader, considered Abbas “a moderate man, an intelligent man, an experienced man. ... There is legitimate Palestinian leadership whose leader is definitely against terror and war.” Even Sharon welcomed Abbas' win: “His declaration of the framework of the election campaign was encouraging.”<sup>884</sup> Sharon also commented on Abbas' pre-election comments in which he called for the halt of the use of weapons and the disarming of the *intifada*: “The use of weapons is harmful, and it should stop. It is important to keep the uprising away from arms because the uprising is a legitimate right of people to express their rejection of the occupation by popular and social means.”<sup>885</sup> Hence, Abbas, in the concerned parties' eyes, embodied a different strategy from that of Arafat. The essence of this strategy was the dismissal of violence in favour of peace negotiations and peaceful protests to realize Palestinian national aspirations.

In the eyes of Palestinians, Abbas embodies a new era with a functioning democracy. As Ziad Abu Amr, a PLC member and a close ally of Abbas, pointed out: “It could be the beginning of a new era. We may be laying the foundation for the second working democracy in the Middle East.”<sup>886</sup> Of course, Abu Amr was referring to Israel, which always calls itself the region's only democracy. In fact, the Palestinians' success in smoothly and legally transferring power to Abbas enables them to proudly claim that they are the first Arab people to elect two leaders (Arafat and Abbas) within no more than nine years.

Palestinian moves towards democratic transformation did not stop there. In December 2004, Palestinians began the first local elections in nearly three decades (as we mentioned in chapter II, the last local elections were organized in the West Bank in 1976). These elections, the preparation of which had begun in July 2003,<sup>887</sup> are organized into four rounds covering the estimated 600 local commissions of WBGS, and are to be completed by the end of 2005. The first round of elections was organized in the West Bank on 23 December 2004 and in the Gaza Strip on 27 January 2005. The round covered 26 villages and towns in the West Bank, and 10 in

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<sup>884</sup> *Herald Tribune* on 11 January 2005.

<sup>885</sup> Abbas statements were published by *Ibid*, and the German Newspaper of “*Der Tagesspiegel*” on 15 December 2004.

<sup>886</sup> *Herald Tribune* on 11 January 2005.

<sup>887</sup> *Al-Hayyat Al-Jadeeda* on 16 July 2003.

the Gaza Strip.<sup>888</sup> The decision to organize the round in the Gaza Strip one month after the West Bank round was due to the Israeli incursions into the Gaza Strip which made it difficult for Palestinians to organize simultaneous rounds in both areas.

In the West Bank, more than 81% of eligible voters (eligible voters were estimated at 144,000) voted for 886 candidates who sought the 306 seats of 26 local councils.<sup>889</sup> The highest turnout was recorded in Kafr Al Lobed, with more than 95% of the village's eligible voters actually voting. The lowest turnout was recorded in Dier Daboon, with a participation rate of no more than 44%. Women showed unprecedented participation, with a rate estimated at more than 79% as against 22% for men. Furthermore, at least 17% of the seats went to women.<sup>890</sup>

In Gaza, nearly 60,500 Palestinians turned out at 167 electoral boxes distributed between ten polling stations; with a turnout rate of 72% (registered voters were estimated at 83,700). These Palestinians elected 118 councillors out of 414 candidates (68 candidates were women) for ten local councils. The highest rate of participation was recorded in El Musadir, with a turnout rate of 96%, while the lowest participation was recorded in Dier El Balah with a turnout rate of 77%. Female participation was notable, with a turnout rate of 50%, and no less than 20 seats (approximately 17%) went to women.<sup>891</sup>

Perhaps the most notable aspect of these elections was Hamas' participation in clear contradiction to its boycott of the presidential elections. Its participation reveals the growing divide in Hamas insofar as the party's attitude towards the peace process is concerned. This divide may explain why Hamas did not participate in the presidential elections but *did* take part in the local elections. Arguably, Hamas may have used the local elections to test its popularity and to decide whether it ought to proceed with its "moderate policy" seeking a share of power.

Running in the elections as the "Islamic Reform Bloc" in the West Bank and as the "Reform and Change Bloc" in the Gaza Strip, Hamas did well against Fatah, which

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<sup>888</sup> *Al-Ayyam* on 21 December 2004.

<sup>889</sup> *Ibid* on 22 and *Al-Quds* on 23 & 24 December 2004.

<sup>890</sup> *Al-Ayyam* & *Al Quds* on 27 December 2004.

<sup>891</sup> *Al-Hayat Al-Jadeeda* on 28 & 29 January 2005.

ran as the “Bloc of Arafat, the Martyr”. In the West Bank, nearly 91 seats or 30% of seats went to Hamas members and supporters, as against 153 seats or 50% that went to Fatah members and supporters. The remaining seats went to independents. In some areas, Hamas enjoyed sweeping victories. For example, Hamas won ten out of 11 seats in El-Shiyoukh near Hebron. Furthermore, Hamas was expected to have representation on twelve of the 26 local councils.<sup>892</sup>

By comparison, Hamas enjoyed an even bigger victory in the Gaza Strip, with no less than 77 seats or 65% of the 118. 37 seats went to Fatah, three to independents and one to PFLP. As a result, Hamas dominates seven local councils, leaving only three for Fatah.<sup>893</sup> Hamas' sweeping victory in the Gaza Strip is explained by the fact that the Gaza Strip is considered the “Home of Hamas”. Hamas was born and raised in the Gaza Strip, and many of its top leaders (Ahmad Yassin, Abdel Aziz Al-Rantisi and others) settled there. Thus, it should not be surprising that Hamas won 13 out of 14 seats on the Dier El Balah local council as against one for Fatah; 11 out of 13 seats on the Zawaida local council as against two for Fatah; 12 out of 13 seats on the Bani Suhlia local council as against one seat for an independent; 11 out of 13 seats on the Beit Hanoun local council as against one seat each for PFLP and for an independent; nine out of 11 seats on the Al-Nasser local council (in Rafah) as against two for Fatah; nine seats out of 11 on the Al-Shoka local council (in Rafah) as against two for Fatah; and seven out of 11 seats on the Kheza'a local council as against three for Fatah and one for an independent. However, Fatah dominated the following local councils: El Zahrah, with seven seats as against two for Hamas; Al-Maghazi, with 10 seats as against three seats for Hamas; and El Musadir, with all nine seats.<sup>894</sup>

Hamas' electoral success is a clear indication of its growing constituencies of support. This may encourage its leaders to seek to share power and to cease boycotting the formal state institutions. Hamas' positive attitude towards the legislative elections scheduled for 17 July 2005 suggests that Hamas is so inclined.<sup>895</sup>

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<sup>892</sup> *Al-Ayyam* on 25 & 27 December 2004.

<sup>893</sup> *Al-Quds* on 29 January 2005.

<sup>894</sup> *Al-Hayat Al-Jadeeda* & *Al-Quds* on 29 January

<sup>895</sup> *Al-Quds* & *Al-Hayat Al-Jadeeda* on 9 January 2005.

Nevertheless, Hamas' newly emerged moderate attitude remains conditioned on the ability of the newly-elected PA President Abbas to halt Israeli measures against Palestinians: the extrajudicial killings, the closure, the road blocks, the incursions into Palestinian cities and towns, and so forth. Only this will enable Abbas to conclude a cease-fire agreement with Hamas and other Palestinian factions like Islamic Jihad and Al-Aqsa Martyrs Brigades, and to halt these factions' attacks against Israeli targets, like the January 2005 attack at Karni crossing (the main crossing for goods and supplies into the Gaza Strip) which left six Israelis dead.<sup>896</sup>

It must be emphasized that Abbas' success in halting Israeli measures against Palestinians will not ensure him a lasting cessation of these factions' attacks against Israeli targets. Abbas must hurry to conclude a final status peace settlement, ensuring the realisation of the Palestinian aspiration for an independent state with East Jerusalem as its capital. This would enable Abbas not only to halt violence but to evolve his authority into a state with all its derivative attributes, including the capacity to issue binding rules and to monopolise coercion.<sup>897</sup>

Of course, Abbas is not going to succeed if he is abandoned. The international community must take its moral and legal responsibility and pressure Israel to comply with the UN General Assembly resolutions providing for a Palestinian state over WBGS with East Jerusalem as its capital. It is said that the international community learned from the bitter experience of the Oslo process and became aware of the negative ramifications of any settlement not based on international law. Among these negative ramifications is the four-year bloodshed of the *Al-Aqsa intifada*- a bloodshed that seems most likely to renew itself if a real peace based on justice and fairness does not prevail in the future.

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<sup>896</sup> See the BBC on 14 January 2005. Online  
<[http://newswww.bbc.net.uk/1/hi/world/middle\\_east/4174687.stm](http://newswww.bbc.net.uk/1/hi/world/middle_east/4174687.stm)>

<sup>897</sup> Migdal. *Strong Societies*, op.cit., P.19.

## Conclusion

Historically speaking, Palestinians have always had some level of access to local level institutions (municipal and rural councils) but only intermittently had access to national level institutions of state functions (Parliament & Cabinet). However, at all times and regardless of the level of access Palestinians have always been constrained in their access by their ruler and this access was confined to particular social stratum. It was the Oslo process which made it possible (in theory) for everyone to have full access at all levels.

Nevertheless, as Chapters III & IV (the Oslo Autonomy, the Process: the peace, the people, and the authority, & the Palestinian Legislative Council: the Incomplete Democracy) show the reality of the Oslo process has meant that in fact what has occurred is a concentration of power into the hand of the ruling elite (Arafat and the small elite around him) at the expense of the majority of population who were denied access to national & local level institutions of state functions. This state of the political marginalization (or denationalization) of the majority of population hindered the emergence of a democratic political system based on the principles of the separation of powers, accountability, and transparency, and stifled the emergence of the rule of law.

Arafat and the small elite around him had not only hindered the emergence of a democratic political system, and stifled the emergence of the rule of law, but also (as chapter V of the Oslo Autonomy: Functional Perspective discusses) the emergence of a bureaucratic system with a recruitment system based on achievement rather than informal/irrational criteria (competence), highly specialized and differentiated administrative role of civil servants (differentiation), and well established and thoroughly understandable system of super-ordination and sub-ordination (hierarchy) as Max Weber suggests. Instead of building a bureaucratic system with these structural characteristics, Arafat and the small elite around him tended to enlarge and overstaff it, with the aim of gaining people's loyalty, and supporting their legitimacy. Thereby, politicizing the bureaucracy, and hence, diverted it from its intended purpose (the welfare of Palestinians).



In sum, the peace process with its reference of Oslo accords hampered the building of durable and responsive political institutions as well as professional bureaucratic system. This happened when this process demobilized people (mainly due to its failure to realize Palestinian national aspirations in sovereign state and self-determination), and therefore, enabled Arafat and the small elite around him to concentrate power and to introduce a semi-autocratic rule stamped by a neo-patrimonial principles that enable the ruler to exploit public fund and institutions in order to gain people allegiance and to enhance his regime legitimacy.

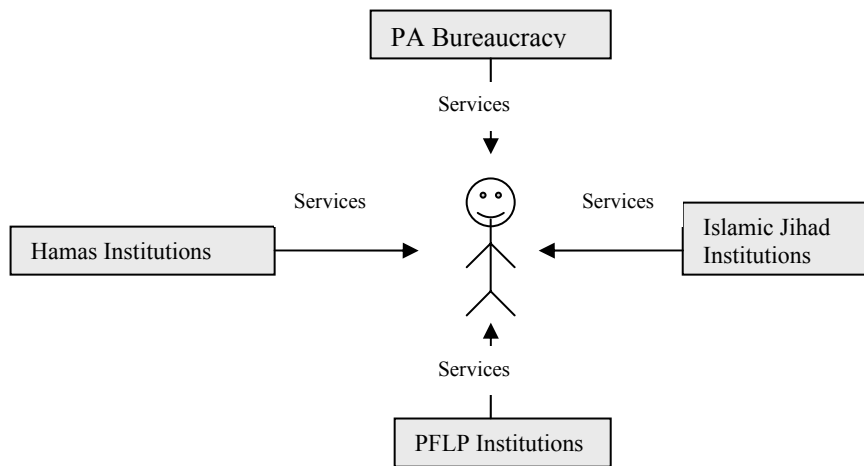
In response, the opponents of Oslo process & Arafat- Hamas, Islamic Jihad, and PFLP-had strengthened their institutions, and started to practice Para-state functions parallel to PA formal institutions (as chapter V shows). Some of the opponents' institutions had been laid down long time ago, and others had been founded after PA's arrival to WBGS in 1994. These institutions, most of which are of charitable nature, became one of the main sources of services for Palestinians. Thousands of Palestinian families inside the territories became very much dependent on the services of these institutions. Some of these institutions went further and started running schools, kindergarten, and so forth. Al Salah Islamic Society, for instance, is affiliated with Hamas, and run several elementary schools in the territories.

The contribution of these institutions to Palestinians' welfare became very evident during the recent *intifada*. The Israeli measures adopted against Palestinians during the current *intifada* had left thousands of them dead, other tens thousands injured, and tens of thousands have been arrested. Hundreds of homes demolished, and large stretches of agricultural land razed. In addition to the huge death toll, and the losses in the properties, the economic situation of most Palestinians has rapidly deteriorated with an unemployment rate of more than 63% by 2004.<sup>898</sup> This fact, coupled with the financial crisis which the PA had started to encounter since the outbreak of the *intifada*, presented these institutions as a major supplier of the services for Palestinians.

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<sup>898</sup> London-based daily of *Al-Hayat* on 31 July 2004.

Most importantly is the fact that these institutions are protected by the militia of the political party with which it is affiliated. El Salah Islamic Association, for instance, is protected by Izz al-Din Qassam Brigades, the military wing of Hamas. The Friends of Martyr, affiliated with the Islamic Jihad, and protected by the Al-Quds Brigades, the military wing of Islamic Jihad. All of these institutions (together with the militia which protect them) enjoy autonomous status far from PA control. One can claim, therefore, that the Palestinian scene is witnessing a form of multi-states (in functional sense) or Islands of states, each of which enjoys autonomous status far from others' control, and seek to gain citizens' loyalty through the services it provides to them. The Palestinian scene might be illustrated by the following graph:



Accordingly, State- in the term of central, autonomous, and differentiated organization with the power of issuing authoritative binding legal rules and monopolizing coercion (as Joel Migdal suggests) was absent from the Palestinian scene.

That is why the reform emerged at the top of Palestinians agenda during the Al-Aqsa intifada (2000-2004). As chapter VI (Al-Aqsa Intifada: the Struggle for Reform) discusses, Palestinians initiated some reform measures during Al-Aqsa intifada. Nevertheless, the question of the Palestinian state in term of central organization with a power of issuing authoritative binding legal rules and monopolizing coercion remained open, and its answer remains conditioned on the ability of the newly elected PA president Mohammoud Abbas (Abu Mazen) to conclude a final status peace settlement for the Israeli-Palestinian conflict ensuring the realization of the Palestinian

rights in state and self-determination. Only this would enable PA to evolve itself into state with all the derivative attributes including the capacity of issuing binding rules and monopolizing coercion as Joel Migdal suggests.

Accordingly, we can claim-drawing on our case (WBGS in the period of 1994-2004)- that the ability of any people to build their state in term of autonomous, differentiated, and centralized organization that monopolizes coercion and has the capacity to issue territorially binding rules is not separate from the process of building a state in terms of external sovereignty. The completion of the later process is a pre-condition for the success of the former process. Alternatively, building a state in term of external sovereignty is a pre-condition for building state in term of internal-sovereignty.

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Hiermit erkläre ich, dass ich die vorliegende Arbeit selbstständig und nur unter Verwendung der angegebenen Literatur und Hilfsmittel angefertigt habe.

Berlin, 2005